

1001.

APPROVAL, FINAL RESOLUTIONS ON ROAD IMPROVEMENT IN VIL-
LAGE OF MARYSVILLE, UNION COUNTY.

COLUMBUS, OHIO, October 7, 1929.

HON. ROBERT N. WAID, *Director of Highways, Columbus, Ohio.*

1002.

INTEREST—UPON DELINQUENT TAXES—WHEN LEGALLY
ASSESSABLE.

SYLLABUS:

The interest charge on delinquent taxes on lots or lands provided for by Sections 5712 and 5713, General Code, may not be legally assessed or extended unless such delinquent lots or lands are included in the list of delinquent lands in the county and published by the county auditor in the manner provided by Section 5704, General Code, and until such delinquent lots or lands have been certified to the Auditor of State as provided by Section 5712, General Code, pursuant to the notice contained in said published list of delinquent land provided for by Section 5704, General Code.

COLUMBUS, OHIO, October 8, 1929.

The Tax Commission of Ohio, Columbus, Ohio.

GENTLEMEN:—Some time ago you received an application for the remission of certain penalties and interest extended by the Auditor of Cuyahoga County with respect to delinquent taxes extending over a period of eight years on certain real property located on Prospect Avenue near East 30th street, in the city of Cleveland, and listed for taxation in the name of Anna M. Brainard and Laura C. Brainard. It appears from the application that on or about the year 1920 said property was leased to the J. L. Free Company, under an agreement that the lessee was to pay the taxes on said property; that said J. L. Free Company made an assignment in 1927; that after said assignment the petitioners discovered that the J. L. Free Company had not paid the taxes and assessments levied against the property. The application for the remission of the penalties and interest extended by the county auditor on said delinquent taxes is based on the ground that the county auditor did not publish said property as delinquent, as was provided for by Section 5704, General Code.

The jurisdiction of the Tax Commission to receive and act upon an application of this kind is conferred by Section 5624-10, General Code. You will observe from the provisions of this section that the power therein conferred is to "remit taxes and penalties thereunder found by it to be illegally assessed, and such penalties as may have accrued or may accrue in consequence of the negligence or error of an officer required to perform a duty relating to the assessment of property for taxation, or the levy or collection of taxes." The section makes no reference to interest, but I believe it may be assumed that the section is broad enough to cover this subject, since interest is, after all, a form of penalty.

Section 5678, General Code, makes provision for the imposition of penalties. This