In considering your second inquiry your attention is directed to Opinion No. 494, dated May 16, 1927, the syllabus of which reads:

> "A board of county commissioners cannot legally enter into a contract and expend public moneys for the payment of premiums on 'public liability' or 'property damage' insurance covering damages to property and injury to persons caused by the negligent operation of county owned motor vehicles; there being no liability to be insured against, the payment of premiums would amount to a donation of public moneys to the insurance company."

Although the discussion in said opinion is confined to boards of county commissioners the reasoning therein contained is applicable equally to boards of township trustees. I am enclosing herewith a copy of this opinion.

The rule that statutory boards, being creatures of statute, can exercise only such powers as are expressly granted by statute and such as are necessarily implied to carry the powers expressly granted into effect, is especially applicable with reference to the township's financial affairs. A board of township trustees represents the township in respect to its financial affairs only so far as authority is given to them by statute. Public moneys, whether in the custody of public officers or otherwise, constitute a public trust fund, which can only be disbursed by clear authority of law. To this effect see *State, ex rel. Smith* vs. *Maharry*, 97 O. S. 272. As stated in the third paragraph of the syllabus in the case of *State, ex rel.* vs. *Pierce*, 96 O. S. 44:

> "In case of doubt as to the right of any administrative board to expend public moneys under a legislative grant, such doubt must be resolved in favor of the public and against the grant of power."

No section of the General Code confers authority upon a board of township trustees to expend public moneys for the payment of premiums for liability insurance covering damages to property or injury to persons caused by the negligent operation of township owned motor vehicles or road building machinery. Nor does authority exist for such a board to expend public moneys for the payment of premiums for liability insurance covering damages to property or injury to persons caused by reason of the negligence or carelessness of such a board in the discharge of its official duties. Your second question must therefore be answered in the negative.

Respectfully,
EDWARD C. TURNER,
Attorney General.

2173.

DISAPPROVAL, ABSTRACT OF TITLE TO LAND OF JACOB Y. DYKE AND E. B. HATFIELD, IN FRANKLIN TOWNSHIP, ROSS COUNTY.

COLUMBUS, OHIO, May 29, 1928.

HON. CARL E. STEEB, *Secretary, Ohio Agricultural Experiment Station, Columbus, Ohio.*

DEAR SIR:—There were submitted for my opinion under recent date two abstracts of title covering two separate tracts of land in Franklin Township, Ross County, Ohio, which said tracts are more particularly described as follows:

First Tract: Part of the Virginia Military Survey No. 13,441, being bounded and described as follows: Beginning at a White Oak, corner to Survey No. 14,849 and Number 13,516 and running thence North Fifty (50) degrees West One hundred and fifteen (115) poles to a stake on Britton's corner to Survey No. 13,523, thence South with said Britton's line Fifty-one (51) degrees West One hundred and thirty-four (134) poles to a stake, thence Forty-three (43) degrees West Fifteen (15) poles, thence South Sixty-four (64) degrees East Twenty-six (26) poles to a Hickory, thence South Eighteen (18) degrees East Thirty-eight (38) poles to Two (2) Chestnut Oaks, thence South Forty-four (44) degrees East Forty (40) poles to Three (3) Chestnut Oaks corner to Survey No. 14,891 and No. 14,849, thence North Fifty-eight (58) degrees East One hundred and Sixty-six (166) poles to the place of beginning, containing Ninety-nine and one-fourth (99¼) acres, be the same more or less.

Second Tract: Being part of Survey No. 14,523, beginning at a large White Oak near the top of the ridge, thence South (41.½) degrees East 15.6 poles to a White Oak, thence South (62) degrees East (47.2) poles to a stone, thence South (39) degrees East (40) poles to a stone, thence South (57) degrees West (127) poles to a stone, thence North bearing East (135) poles, more or less containing thirty-five (35) acres, more or less."

As to the first tract above described, which is covered by abstract No. 1 so-called, I find that Jacob Y. Dyke and E. B. Hatfield are the owners of record of said tracts, subject to the following exceptions, disclosed on an examination of the abstract covering said tract:

1. The abstract fails to show that in any of the deeds in the chain of title to this tract of land were there any words of inheritance either in the granting clause or in the habendum clause thereof. Thus in the abstract of the granting clause of each of said deeds in the chain of title, the same is noted as follows: "Granting clause, grant, bargain, sale and convey". The abstract of the habendum clause as to each of said deeds is as follows: "Habendum clause, to have and to hold." In other words, it does not appear that the words "heirs and assigns" appear in either the granting clause or the habendum clause of any of said deeds.

Prior to the enactment of Section 8510-1, General Code, 111 O. L. 18, words of inheritance were necessary in order to convey a fee simple title to lands in this state. In the absence of such words of inheritance the deed was effective to convey a life estate only. Ford vs. Johnson, 41 O. S. 366. It is altogether probable that such of the deeds in the chain of title to this tract of land as were executed in the State of Ohio did contain such words of inheritance in both the granting clause and the habendum clause and that a check up on said deeds as they appear of record will show this to be the fact. However, it likewise appears quite probable that some of the deeds in this chain of title were executed in other states; and in this connection the abstract of title submitted is defective in not indicating where any of said deeds were executed. As to deeds executed outside of the State of Ohio it may be that the same did not contain words of inheritance either in the granting clause or in the habendum clause of such deeds; as it is to be noted that in some of the states words of inheritance are not necessary in order to convey a fee simple title to lands. A re-check should be made of all the deeds in the chain of title to this tract of land, and full information given with respect to the matters above noted.

2. As to some of the deeds in the chain of title noted in the abstract it appears that the same were not witnessed. In this connection attention is called to the deeds at Sections 4, 5, 6, 25 and 26 of the abstract. If these deeds were executed in the State of Ohio they were manifestly defective. It is altogether probable however, that these

deeds, or some of them were executed in other states where witnesses are not necessary to give validity to a deed as an instrument of conveyance. Full information with respect to this objection should be made a part of the abstract.

3. A deed noted at Section 25 of the abstract is defective according to Ohio forms in not containing a habendum clause. Full information with respect to this deed should be given. A deed noted at Section 26 of the abstract which is one by Elmer E. Marsh and wife to Jacob Y. Dyke and E. B. Hatfield is further defective for the reason that as noted in the abstract the same does not contain either a granting clause or a habendum clause. In this situation it is difficult to understand how said Jacob Y. Dyke and E. B. Hatfield obtained any title to this land through said deed. A full abstract of this deed should be made so that it may be determined whether the same was effective to convey any title to said named grantees.

With respect to the 35 acre tract of land above described, it appears that said Jacob Y. Dyke and E. B. Hatfield are the owners of record of the same but that as abstracted their title thereto is defective for the following reasons:

1. As abstracted it does not appear that any of the deeds in the chain of title contain words of inheritance either in the granting or the habendum clause of said deeds.

2. From the abstract it appears that certain of the deeds in the chain of title to this tract of land, towit, those noted at sections 3, 5 and 6 of said abstract were not witnessed. If these deeds were executed in the state of Ohio, they are defective. If they were executed in states other than Ohio, that fact should be noted.

For the reasons above noted, the abstracts of title to said above described tracts of land are disapproved, and the same are herewith returned to you, to the end that the same may be forwarded to the owners for further correction with respect to the matters above indicated.

Respectfully,
EDWARD C. TURNER,
Attorney General.

2174.

ROAD IMPROVEMENT—FORCE ACCOUNT—COUNTY TAXES—NOTES IN ANTICIPATION OF BONDS NOT NECESSARY—SECTION 6948-1, GENERAL CODE, DISCUSSED.

SYLLABUS:

Where the county commissioners improve a county road by force account under authority of Section 6948-1, General Code, bonds may be issued for such improvement in anticipation of the receipt of county levies and special assessments upon the estimated cost of such improvement, and without the necessity of issuing notes in anticipation of such bond issue.

COLUMBUS, OHIO, May 29, 1928.

HON. D. H. PEOPLES, *Prosecuting Attorney, Pomeroy, Ohio.*

DEAR SIR:—This will acknowledge receipt of your recent communication, as follows:

"I hereby request your written opinion upon the following question:

In view of the fact that the Attorney General has held in opinion No. 2800 for 1925, that under Section 5654-1 G. C., a mandatory condition exists re-