

a judgment, and the entry of that fact constituting an affirmance of the judgment of the Court of Appeals, it is ordered that the defendants in error recover from plaintiff in error their costs herein expended."

To the same effect is *Gilvary vs. Cuyahoga Valley Ry. Co.*, at page 402 of the same volume, the entry of affirmance reading:

"It appearing that the judges of the court are equally divided in opinion as to the merits of this case (one judge not participating) and are for that reason unable to agree upon a judgment, and the entry of that fact constituting an affirmance of the judgment of the Court of Appeals, it is ordered that said judgment be affirmed."

Specifically answering your question, it is my opinion that upon appeal to the Tax Commission from the decision of a county board of revision under Sections 5610, et seq., General Code, in the event the Tax Commission is equally divided as to whether or not the decision of such county board of revision should be affirmed, such division constitutes an affirmance of the decision of the county board of revision.

Respectfully,

JOHN W. BRICKER,
Attorney General.

4853.

APPROVAL, PROPOSED ARTICLES OF AGREEMENT FOR
HIGHWAY IMPROVEMENT IN LUCAS COUNTY, OHIO
—THE TOLEDO AND INDIANA RAILROAD COMPANY.

COLUMBUS, OHIO, November 1, 1935.

HON. JOHN JASTER, JR., *Director of Highways, Columbus, Ohio.*

DEAR SIR:—Acknowledgement is made of your communication under date of October 29, 1935, submitting for my consideration the proposed articles of agreement to be entered into by and between The Toledo and Indiana Railroad Company and the Department of Highways, with reference to the widening and improvement of SH (ICH) No. 537, Section "A" (Dorr Street), Lucas County.

After consideration, it is my opinion that said agreement is in proper

legal form and I have accordingly approved the same as to form and return the same herewith.

Respectfully,
JOHN W. BRICKER,
Attorney General.

4854.

DISAPPROVAL, PETITION CONTAINING PROPOSAL TO
REPEAL EXISTING SECTION 2 OF ARTICLE XII OF THE
OHIO CONSTITUTION, ETC.

COLUMBUS, OHIO, November 2, 1935.

Ohio Association for Tax Reduction, 1120 Chester Avenue, Cleveland, Ohio.

GENTLEMEN:—You have submitted for my examination a written petition signed by one hundred qualified electors of this state containing a proposal to repeal existing Section 2 of Article XII of the Ohio Constitution and adopt a new Section 2 of said article, which shall read as follows:

“Real estate and tangible personal property shall be exempt from taxation; No sales tax, so-called, or excise tax shall ever be levied upon the sale, purchase, distribution, or exchange of tangible personal property, provided, however, taxes may be imposed by law upon the production, sale, or distribution of gasoline and other liquid motor fuel, said gasoline and motor fuel tax shall not exceed the sum of four cents per gallon and all such gasoline and motor fuel tax revenue shall be paid monthly to the County Treasurer in each of the Several Counties and said return shall be based on the number of miles of County and Township roads and Municipal streets contained within each of the respective Counties; said gasoline and motor vehicle fuel revenue shall be used exclusively for the building and maintenance of County, Municipal, and Township thoroughfares and shall be disbursed under the direction and supervision of the County Commissioners.

The annual license fee or charge for the licensing and operation of motor vehicles or trailers shall not exceed the sum of two dollars per annum for any one such motor vehicle or trailer so licensed for operation upon the public highways; all such revenue received from the licensing of motor vehicles and trailers shall be paid monthly to all hospitals not supported by tax revenue and only