

3821.

APPROVAL, BONDS OF VILLAGE OF MAUMEE, LUCAS COUNTY,
OHIO—\$7,500.00.

COLUMBUS, OHIO, December 7, 1931.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.

3822.

MECHANICS LIEN LAW—CREDITORS OF BANKRUPT CONTRACTOR
HAVE NO LIEN ON FUNDS IN HANDS OF DIRECTOR OF HIGH-
WAYS—TRUSTEE IN BANKRUPTCY ENTITLED TO SUCH FUNDS
IN PREFERENCE TO CREDITORS.

SYLLABUS:

1. *Creditors of a bankrupt contractor have no claims against the funds in the hands of the Director of Highways by reason of the provisions of Sections 8324 et seq. of the General Code.*

2. *The trustees in bankruptcy, upon completing a contract of the bankrupt with the Director of Highways, is entitled to the funds in the hands of the Director of Highways in preference to the creditors of the bankrupt.*

COLUMBUS, OHIO, December 8, 1931.

HON. O. W. MERRELL, *Director of Highways, Columbus, Ohio.*

DEAR SIR:—This will acknowledge your request for my opinion which reads as follows:

“A contract was awarded for the construction of a section of highway. The contractor became bankrupt and the surety company which furnished the bond is being liquidated by the insurance department of the State of New York. The trustee in bankruptcy is completing the contract through a sub-contractor.

A number of creditors have claims which would have been valid against the surety, and are attempting to press these claims against the state. There is still a balance due on the contract. Should this balance be held for the creditors or should it be paid to the trustees in bankruptcy?”

I assume, from a reading of your letter, that the bond issued by the surety company was executed and received by you in a legal manner. The creditors who are pressing a claim against the unpaid funds in your hands, are evidently asserting this claim under the provisions of Sections 8324 et seq., of the General Code. This office has consistently held that the provisions of said sections are not applicable to state work or improvements.