

the exception of jewelry and kindred articles must be held sixty days prior to sending the notice by registered mail, or may the same be held only thirty days before the notice is sent under the terms of the above quoted section."

Section 6341-1 of the General Code, so far as it is material to your inquiry, is as follows:

"If pledger shall fail to redeem any article of jewelry, gems, silverware, gold-plate, precious stones and kindred articles within six months from the date of the loan or sale, or becomes six months in arrears in the payment of interest, or shall fail to redeem any other articles pledged or sold within thirty days after maturity of loan, it shall be the duty of the licensee to notify the pledger or seller by registered mail, demanding return receipt therefor, to the last place of address given by said pledger or seller, that unless said pledge or property is redeemed within thirty days from the date said notice is mailed * * * it shall be at public or private sale." * * *

This places upon the licensee under this act the duty of notifying the pledger or seller, if any of three conditions exist.

(1) If the pledger shall fail to redeem any article of jewelry, etc., within six months from the date of the loan or sale.

(2) Becomes six months in arrears in the payment of interest.

(3) Fails to redeem any other articles pledged or sold within thirty days after the maturity of the loan.

It is evident, therefore, that with respect to property other than jewelry and kindred articles, as defined in the statute, the licensee must hold the same until the maturity of the loan, and thirty days thereafter before giving notice, and hold the same thirty days after the notice before the same may be sold, as provided by the statute.

Respectfully,

C. C. CRABBE,

Attorney-General.

1629.

ROAD IMPROVEMENT—COUNTY COMMISSIONERS HAVE AUTHORITY TO REDUCE SPECIAL ASSESSMENTS UNDER SECTION 1214-3 G. C.

COLUMBUS, OHIO, July 28, 1924.

SYLLABUS:

1. County commissioners in a county in which said commissioners have, prior to the taking effect of Section 1214-3 of the General Code, 110 Ohio Laws, 363, and under the authority of Section 1214 of the General Code, increased the per cent of the cost and expense of any road improvement to be specially assessed to more than fifteen per cent of the total cost and expense of such improvement, excepting therefrom the cost and expense of bridges and culverts, are authorized and empowered, under said Section 1214-3 of the General Code, at any time after the taking effect of said section, to reduce such special assessments to not less than fifteen per cent of the total cost and expense of the improvement, excepting therefrom the cost and expense of bridges and culverts.

2. *County commissioners, upon the adoption of a resolution by a majority vote, are authorized and empowered to make such reduction in cases where the improvement has been made and the assessments collected prior to the passage of said Section 1214-3 of the General Code. As a preliminary condition, said county commissioners should find and declare in said resolution that the special assessments previously made are excessive in view of the benefits conferred by the improvement.*

3. *The refund made in pursuance to such reduction so made by the county commissioners is payable to the person or persons who paid the assessment or a part thereof.*

COLUMBUS, OHIO, July 28, 1924.

Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

Gentlemen:—

Receipt is acknowledged of your recent communication and request for an opinion, which reads:

“Under the provisions of Section 1214-3, General Code, 110 O. L. 363, may a board of county commissioners reduce an assessment made against benefited land owners on a state road improvement from 25 to 15 per cent, in a case where the road improvement was made before the law was passed and all assessments collected prior to the passage of the law?”

“The particular case we have in mind is where the improvement was made and the assessments paid in the years 1919, 1920 and 1921. In this case there were no bonds issued but the cost of the improvement was paid out of the road funds of the county and the land owners proportion was collected during the three years.

“Question 1. May the county commissioners now reduce the assessment and refund to the property owners who paid the same?”

“Question 2. In the event that you hold that a reduction may be made and assessments refunded, to whom should the money be paid in cases where the property assessed has changed ownership during or after the period of assessment; should the refund be made to the owners of the property at the time the assessment was made or to the present owner, or to both in the event that each paid a part of the assessment?”

Section 1214-3, General Code, (110 Ohio Laws, 363), reads:

“In any county in which the county commissioners, under authority of section 1214 of the General Code, have prior to the taking effect of this act increased the per cent of the cost and expense of any road improvement to be specially assessed to more than fifteen per cent of the total cost and expense of such improvement, excepting therefrom the cost and expense of bridges and culverts, such county commissioners shall, at any time after the taking effect of this act, be authorized and empowered to reduce such special assessments to not less than fifteen per cent of the total cost and expense of the improvement, excepting therefrom the cost and expense of bridges and culverts. Such action shall require a majority vote of said board of county commissioners, and shall be taken only in the event such board shall find, and shall declare by a resolution adopted by a majority vote thereof, that the special assessments previously made are excessive in view of the benefits conferred by said improvement. Such action shall not be held to in any way affect or impair the obligation of the county to pay the

interest upon and redeem at maturity any bonds issued in whole or in part in anticipation of the collection of any special assessments so reduced. Any board of county commissioners making any such reduction in special assessments shall assume on behalf of the county the entire amount by which such special assessments are reduced, and shall at the time such reduction is ordered provide for the levy of a tax upon all the taxable property of the county annually under the provisions of section 1222 of the General Code or other appropriate section thereof sufficient to meet any deficiency in the interest and redemption fund for any bonds issued by the county, which deficiency is occasioned by such reduction in assessments, and also sufficient to make refund of the amounts remitted on any special assessments already paid. Refunds of amounts remitted on special assessments already paid shall be made from the proceeds of such tax, upon the allowance of the county commissioners and reductions in unpaid special assessments shall be certified to the county auditor by the county commissioners, and shall be entered by the county auditor upon the duplicate upon which such special assessments have been placed. Such reductions in unpaid special assessments shall not be effective, however, and shall not be entered upon such duplicate until taxes levied as hereinbefore provided shall have come into the county treasurer an amount sufficient to provide for any deficiency in the interest and redemption fund for any bonds issued in anticipation of the collection of such special assessments. Any reductions in assessments made under the provisions of this section shall be uniform in percentage throughout the assessment area. Taxes already levied and collected under section 1222 of the General Code and which are unappropriated for any other purpose and against which no liabilities exist, may be used for the purposes of this section."

A study of the section clearly discloses that it was the intention of the legislature to authorize county commissioners to reduce an assessment in excess of fifteen per cent of the total cost and expense of a road improvement, excepting therefrom the cost and expense of bridges and culverts, to not less than fifteen per cent of the total cost and expense of the improvement, excepting therefrom the cost and expense of bridges and culverts, in connection with road projects in cases where the road improvement was completed and assessments collected prior to the passage of the above quoted section.

The statute specifically provides that the county commissioners, in any county in which, under authority of Section 1214 of the General Code, prior to the taking effect of the act, have increased the per cent of the cost and expense of any road improvement to be specially assessed to more than fifteen per cent, shall be authorized and empowered to make the reduction, at any time after the taking effect of the act.

It will be noted that there is no limit as to when the improvement may have been made, or the assessment approved, levied or collected. The only limitations upon the authority to make the reductions are: in cases (1) in which the assessments have been made under Section 1214, General Code, (2) where the assessment has been increased in excess of fifteen per cent; and (3) where the county commissioners find, by resolution adopted by a majority vote, that the special assessments previously made are excessive in view of the benefits conferred.

It will further be noted that the statute makes provision for the raising of funds with which to take care of the reductions made, and provides, " * * * ", and also sufficient to make refund of the amounts remitted on any special assessments *already paid*. Refunds of amounts remitted on special assessments *already paid*,

etc." clearly showing that the legislature contemplated a reduction of and a refund on assessments already paid.

The statute does not specifically provide to whom the refund shall be paid. Presumably, the legislature, in providing a refund on a payment made, intended that payment of such refund should be made to the person making the original payment.

Answering your questions, I am of the opinion and you are advised that: (1) Under the provisions of Section 1214-3 of the General Code, 110 O. L. 363, a board of county commissioners is authorized and empowered to reduce an assessment made against benefited land owners on a road improvement constructed under the "state aid road law", from twenty-five to fifteen per cent in cases where the improvement was made before the law was passed and all assessments collected prior to the passage of the law; and (2) the refund on assessments is payable to the person who has paid the assessment.

Respectfully,

C. C. CRABBE,
Attorney General.

1630.

DISAPPROVAL, PUT-IN-BAY, OHIO WATER WORKS BONDS—\$9,000.00.

COLUMBUS, OHIO, July 25, 1924.

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

Gentlemen:—

Re: Put-in-Bay, Ohio Water Works Bonds—\$9,000.00,

I have examined the transcript for the foregoing issue of bonds, a portion of which has been purchased by you subject to the approval of the Attorney General.

I find that I cannot approve this issue of bonds for the following reasons: Section 2295-12, General Code, 110 O. L. 459, provides:

"All bonds hereafter issued by any county, municipality, including charter municipalities, school district, township or other political subdivision, shall be serial bonds maturing in substantially equal semi-annual or annual installments. If issued with semi-annual maturities, the first installment shall mature not earlier than the date fixed by law for the semi-annual provisional tax settlement between the county treasurer and the political subdivision or taxing district next following the time fixed by law for the inclusion of a tax for such issue in the annual budget by the county auditor as provided by law; and if issued with annual maturities, the first installment shall mature not earlier than the date fixed by law for the final annual tax settlement next following the said time of said inclusion. In either case the first installment shall mature not later than eleven months after said earliest date thereof."