

that the laws relating to the status of surety companies and the workmen's compensation have been complied with.

Finding said contract and bond in proper legal form I have this day noted my approval thereon and return the same herewith to you, together with all other data submitted in this connection.

Respectfully,
C. C. CRABBE,
Attorney General.

860.

ROADS—INTERCOUNTY HIGHWAY FUNDS ALLOTTED TO A COUNTY
MAY BE USED BY DEPARTMENT OF HIGHWAYS IN CONSTRUCTION
OF MAIN MARKET ROADS—SECTION 1231 G. C. CONSTRUED.

SYLLABUS:

Intercounty highway funds allotted to a county are available and may be used by the Department of Highways and Public Works in the construction by the state of main market roads in such county by force account, under section 1231 of the General Code of Ohio.

COLUMBUS, OHIO, November 5, 1923.

HON. JOSEPH T. TRACY, *Auditor of State, Columbus, Ohio.*

DEAR SIR:—Receipt is acknowledged of your recent communication in which you inquire whether or not the Department of Highways and Public Works may use intercounty highway funds in the construction of main market roads, in cooperation with the counties, through the employment of laborers and furnishing necessary equipment and purchasing material, without the award of a formal construction contract; all proceedings to be in accordance with section 1231 of the General Code.

It is assumed that by intercounty highway funds you refer to the use in a particular county of the share of the intercounty highway fund allotted to that county.

To arrive at a correct solution of your proposition, it is pertinent to keep in mind that while all the intercounty highways are not main market roads, all main market roads are intercounty highways; that is, the main market roads are located upon and along the route of a portion of the intercounty highways of the state Highways designated as main market roads are also intercounty highways.

It may be said that generally there are created by appropriation three highway funds: (a) Rotary fund, (b) intercounty highway fund, and (c) main market road fund. The rotary fund has its special purposes provided for by statute. The intercounty highway fund is created to be used in the construction, improvement, maintenance and repair of intercounty highways. The main market road fund is created to be used in the construction, improvement, maintenance and repair of main market roads.

Reference to the appropriation statutes will disclose that the appropriation for intercounty highways has reference to intercounty highways generally, and is not limited to those only which are not covered by main market roads.

Section 1231 of the General Code, to which you refer and from which you quote in your letter, provides, among other things, for the purchase of equipment and material, and the employment of the necessary labor, by the Director of High-

ways and Public Works, to execute any work upon the main market roads of the state, or such director is authorized to let contracts for the execution of any work upon such roads. The last sentence of the section reads:

"The funds appropriated or available for main market roads shall be used in carrying out the provisions of this section."

The language of this sentence not only includes funds directly appropriated for the construction, improvement, repair and maintenance of main market roads, but also all other funds which may be otherwise available for such use.

It follows, in specifically answering your question, and I am of the opinion, that intercounty highway funds allotted to a county are available and may be used by the Department of Highways and Public Works in the construction of main market roads by force account in that county, under section 1231 of the General Code.

Respectfully,
C. C. CRABBE,
Attorney General.

861.

APPROVAL, 6 MIAMI & ERIE CANAL LEASES, 2 PORTAGE LAKE LEASES, 2 INDIAN LAKE LEASES, 3 LAKE ST. MARYS LEASES AND 4 OHIO CANAL LEASES.

COLUMBUS, OHIO, November 6, 1923.

Department of Highways and Public Works, Division of Highways, Columbus, Ohio.

862.

APPROVAL, BONDS OF PERRYSBURG VILLAGE SCHOOL DISTRICT, WOOD COUNTY, \$12,598.30, TO FUND CERTAIN INDEBTEDNESS.

COLUMBUS, OHIO, November 7, 1923.

Department of Industrial Relations, Industrial Commission of Ohio, Columbus, Ohio.