

2352.

APPROVAL, BONDS OF CITY OF SANDUSKY, ERIE COUNTY, OHIO—
\$37,300.00.

COLUMBUS, OHIO, September 16, 1930.

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

2353.

SALE OF GRAVEL—NO AUTHORITY FOR COUNTY COMMISSIONERS
OR COUNTY SURVEYOR TO SELL FROM COUNTY PITS.

SYLLABUS:

Neither the county commissioners nor the county surveyor may legally sell gravel from the county pits to township trustees or contractors.

COLUMBUS, OHIO, September 17, 1930.

HON. DANIEL P. BINNING, *Prosecuting Attorney, Coshocton, Ohio.*

DEAR SIR:—Acknowledgment is made of your recent communication which reads:

“The county is the owner of two or three gravel pits and the machinery used in crushing and screening the gravel and also employs men to operate these plants for the maintenance of county roads as provided by the General Code.

There are times when it is more convenient for the trustees of the township and contractors to obtain gravel from the county gravel pits and in some instances the gravel furnished by the county pits is superior in quality to the gravel that can be obtained in other neighboring pits.

The question involved is this: Whether the county commissioners or the county surveyor can sell to the township trustees or contractors doing county or township road work, crushed or screened gravel from the county pits.”

In considering your question, we shall start with the major premise that under the law of Ohio, a board such as that of the county commissioners, may exercise only such powers as are expressly granted by the statutes, and such incidental powers as are necessary to carry into effect the express powers granted.

While the county commissioners may purchase machinery and own and operate gravel plants in connection with the maintenance of county roads, there seems to be no authority to authorize such county commissioners to enter the field of commerce in connection with the sale of gravel which the county produces. Of course, as you state, such power might under certain conditions, seem desirable, yet such action, in my opinion, would be going beyond any power that now exists.

Section 2447, General Code, authorizes the county commissioners to sell real estate not needed for public use, which indicates that when the Legislature intends the power of selling property to be exercised it expressly so states.