

such justice may render final judgment, and if there is a conviction, the justice of the peace should forward immediately to the Registrar of Motor Vehicles a certified copy or transcript of such conviction in accordance with Section 6298-3, General Code, and the Registrar of Motor Vehicles would then obtain jurisdiction to act under Section 6298-4, General Code. However, as noted supra, in the case of *Ex Parte Stahl*, such justice of the peace would have no final jurisdiction if there is a plea of "guilty" entered except when the complaint is made by the party injured. Summarizing it is my opinion that the Registrar of Motor Vehicles is required to revoke the right of a person to operate a motor vehicle upon the public roads and highways of this state as provided in Sections 6298-1 et seq., General Code, where such person has been found in a justice of the peace court to be guilty of (a) "operating a motor vehicle while under the influence of intoxicating liquor or narcotic drugs;" or (b) "failing to stop after an accident when required so to do by law", under the following circumstances:

First, in cases where the accused has entered a plea of "not guilty" and waived his right to a jury trial in writing and submitted to be tried by the justice of the peace,

Second, in cases where the accused has entered a plea of "guilty" and the complaint has been made by the party injured.

Respectfully,

JOHN W. BRICKER,
Attorney General.

4606.

TAX AND TAXATION—AUTHORITY OF TAX COMMISSION
IN APPEAL FROM COUNTY BOARD OF REVISION RE-
SPECTING VALUATION OR ASSESSMENT OF REAL
PROPERTY FOR TAXATION.

SYLLABUS:

Although the Tax Commission in acting upon an appeal from a County Board of Revision with respect to the valuation or assessment of real property for purposes of taxation, may dispose of such appeal upon the report of the examiner designated by the Tax Commission to hear such appeal, it is not required to do so; and the Tax Commission before determining the valuation or assessment of the property affected by the appeal may hear additional evidence on the question before it, and to this end the Tax Commission may call before it, by subpoena or otherwise, such person or persons, officially or otherwise, who may be able to give the Tax Commission the evidence required to

enable it to make a determination with respect to the valuation or assessment of the property. In such case, the Tax Commission is not required to call before it a taxpayer or other person or persons interested in such appeal; however, if such additional evidence is taken, the taxpayer or other persons in interest should be notified and be given an opportunity of presenting evidence upon the question of the valuation or assessment of such property.

COLUMBUS, OHIO, September 4, 1935.

The Tax Commission of Ohio, Columbus, Ohio.

GENTLEMEN:—This is to acknowledge the receipt of your recent communication which reads as follows:

“The Tax Commission of Ohio, in respect to the administration of certain sections of the General Code, namely, sections 5609 and 5610, desires your interpretation of those sections regarding procedure.

The question propounded is as follows:

“If, after all proceedings of the above named sections have been concluded, and the examiner sent to conduct the hearings on appeal, reports his findings and sets out his recommendations, has the Tax Commission of Ohio before affirming, or rejecting the said findings of the examiner, the right to notify the Board of Revision of a County through the County Auditor of that County, that he shall be present to review the finding of the examiner without notifying the appellant to be present at the review?

Your interpretation of these sections concerning the procedure to be followed will be appreciated.”

The question presented in your communication relates to proceedings of the Tax Commission on appeal from the County Board of Revision with respect to the valuation and assessment of real property for purposes of taxation upon the tax list and duplicate of the County for the current year.

Taxes on real property are paid annually upon a tax list and duplicate made up from year to year by the County Auditor and corrected by him or by the County Board of Revision, the Tax Commission of Ohio or by the court in the manner provided by Section 5548-1 and by Sections 5604 to 5611-2, inclusive, of the General Code.

Section 5609, General Code, referred to in your communication, relates to complaints filed with the County Board of Revision with respect to the valuation or assessment of real property upon the tax list and duplicate of the County for the current year.

Section 5610, General Code, which is more immediately applicable to the question presented in your communication, provides as follows:

“An appeal from the decision of a county board of revision may be taken to the tax commission of Ohio, within thirty days after the decision of such board, by the county auditor or any complainant, or any person the valuation of whose real property is increased by the county board of revision. Such appeal shall be taken by written notice to that effect, filed with the tax commission, and with the county auditor. Upon receipt of notice of appeal, the county auditor shall notify all parties interested, in the manner provided herein, and shall file proof of such notice with the tax commission of Ohio. The county auditor shall thereupon certify to the commission a copy of the record of the board of revision pertaining to the original complaint, together with the minutes thereof, and all evidence, documentary or otherwise, offered in connection therewith. Such appeal may be heard by the commission in the county where the property is listed for taxation, or the commission may cause one or more of its examiners to be sent to such county, to conduct such hearing, which shall be held not more than thirty days from the notice of such appeal. Such examiners shall report their findings thereon to the state tax commission for its affirmation or rejection.”

This section was amended by the 91st General Assembly in an Act effective under date of September 2, 1935, 116 O. L. 384; but the amendment of the section made by this Act is not such as affects the question presented in your communication. By the provisions of this section, it will be noted, the appeal filed with the Tax Commission of Ohio from an order of the County Board of Revision determining the valuation or assessment of real property for purposes of taxation may be heard by the Tax Commission in the county where the property in question is listed for taxation, or the Tax Commission may cause one or more of its examiners to be sent to such county to conduct the hearing on this appeal. By this section it is further provided that “such examiners shall report their findings thereon to the State Tax Commission for its affirmation or rejection”. Although under the provisions of this section above quoted, the Tax Commission may determine the appeal before it with respect to the taxation or assessment of particular parcels of real property upon the report of the examiner who has conducted the hearing on such appeal, and it may be assumed that in many instances the Tax Commission has determined appeals before it solely upon the report of the examiner, without additional evidence touching the question involved in the appeal, I see nothing in the provisions of Section 5610, General Code, above quoted,

which are in any way in derogation of the more general provisions of Sections 1465-10 et seq., General Code, relating to proceedings before the Tax Commission in matters properly before the Commission in the exercise of the power and jurisdiction conferred upon it by law.

Aside from the provisions of Section 1465-10, General Code, which empowers the Tax Commission to adopt reasonable and proper rules and regulations to govern its proceedings and to regulate the mode and manner of all valuations of real and personal property, investigations and hearings not otherwise specifically provided for, and aside from the provisions of Section 1465-12 which requires corporations, firms and individuals to furnish to the Tax Commission such information as is required by law and which authorizes the Tax Commission, any member thereof or other person employed for the purpose, to inspect the books, accounts and records of any corporation, firm or individual for such information, other sections of the General Code, which are more pertinent in consideration of the question here presented, specifically provide for the attendance of persons in matters before the Tax Commission for investigation, hearing or determination.

By Section 1465-21 it is provided, among other things, that each member of the Tax Commission, as well as its secretary, shall have power to administer oaths, issue subpoenas and compel the attendance of witnesses and the production of books, accounts, papers, records, documents and testimony. By this section and by Section 1465-23 General Code, it is contemplated that witnesses may be called before the Tax Commission, not only upon the instance of parties to the cause or matter before the Tax Commission, but likewise at the instance of the Tax Commission itself. These statutory provisions relate to and provide for the attendance of witnesses before the Tax Commission on all matters properly before it, whether the persons so attending are officials or otherwise; although it is noted in this connection that by the provisions of Section 1465-23 General Code, no witness subpoenaed at the instance of parties other than the Tax Commission, shall be entitled to compensation from the State for attendance or travel, unless the Commission shall certify that his testimony was material to the matter under consideration. While by Section 1465-24, General Code, it is provided that in the case of the attendance of any officer of any taxing district in a matter before the Tax Commission with respect to the appraisal of property in the taxing district, such officer shall be allowed and paid his actual and necessary travelling expenses, which expenses shall be audited and paid out of the County Treasury of the proper county.

Coming to the consideration of the question presented in your communication in the light of the statutory provisions above noted, it is obvious that the Tax Commission in consideration of the report filed by the examiner on the hearing of the appeal with respect to the valuation assessment, particularly of real property, may call the individual members of the County Board of

Revision or any other person or persons to give their evidence by testimony or otherwise, with respect to the valuation assessment of the property in question. It does not follow from this, however, that the County Auditor or the County Board of Revision, as such, has any right to review the findings of the examiner before the Tax Commission acts upon the same. When the matter in question is appealed to the Tax Commission from the order of the County Board of Revision, this board, as such, has no further jurisdiction or authority in the matter so far as the valuation or assessment of the property for the current year is concerned; and whether any member or members of the County Board of Revision or other person or persons are to be called before the Tax Commission before determining the appeal, after the report of the examiner is filed, is a matter for the Tax Commission.

It may be said in conclusion, and by way of more specific answer to the question presented in your communication, that where the Tax Commission conducts a further hearing upon an appeal from the County Board of Revision, upon the question of the valuation or assessment of real property, after the report of its examiner, upon the hearing conducted by him, has been filed with the Tax Commission, the Tax Commission may call before it on this hearing such person or persons as it may desire to give evidence on the question before it; and, although with respect to such further hearing, the Tax Commission is not required to call before it the taxpayer or other parties in interest on such appeal, such taxpayer or other persons in interest should be notified of the time and place of the further hearing so that they may have an opportunity of meeting the further evidence taken before the Tax Commission.

Respectfully,

JOHN W. BRICKER,
Attorney General.

4607.

APPROVAL, NOTES OF PIONEER VILLAGE SCHOOL DISTRICT, WILLIAMS COUNTY, OHIO, \$1,962.00.

COLUMBUS, OHIO, September 4, 1935.

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