

so that in the year 1922 it is not possible to go back five years in adding omitted improvements, which was the precise question submitted and determined in opinion No. 3013.

Respectfully,
 JOHN G. PRICE,
Attorney-General.

3739.

SIDEWALKS—OUTSIDE OF MUNICIPALITIES—WHERE CONTRACTS ENTERED INTO BY COUNTY SURVEYOR—NO PART OF SERVICES OF COUNTY SURVEYOR OR ASSISTANTS IN COST FOR ASSESSMENT PURPOSES—SEE SECTIONS 7205 AND 7206 G. C.

1. *If sidewalk improvements outside of municipalities are undertaken as authorized by sections 7205 and 7206 G. C., contracts are to be entered into by the county surveyor and not by the county commissioners or township trustees.*

2. *No part of the services of the county surveyor or any of his regularly employed assistants in engineering, inspection or superintendence of such sidewalk improvement is to be included in the cost for assessment purposes. However, the expense of assistants specially employed for a particular project may be so included.*

COLUMBUS, OHIO, November 20, 1922.

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

GENTLEMEN:—You have requested the views of this department as to the following:

“Sections 7205 and 7206 G. C. relate to the building of sidewalks along public highways outside of municipal corporations.

Question 1: May contracts for the construction of such sidewalks be made by the county commissioners or township trustees or must they be made by the county surveyor under the direction of the commissioners or trustees?

Question 2: May the cost of engineering, inspection and superintendence of construction of such sidewalks be included in the cost of the improvement, a part or all of which is to be assessed against abutting property owners in proportion to benefits?”

Section 7205 G. C. reads in part:

“The county surveyor, upon the order of the county commissioners or township trustees, shall construct or cause to be constructed sidewalks of suitable materials, along the public highway, without any municipal corporation, upon the petition of a majority of the abutting property owners, and the expense of the construction of such sidewalks shall be paid by the

county or township and the abutting property owner or owners in such proportion as may be determined by the county commissioners or township trustees. Provided, however, that the abutting property owners shall pay not less than twenty-five per cent of the cost of said sidewalks, and the county commissioners or township trustees may assess all of the cost of said sidewalks against the abutting property owners in proportion to benefits accruing to such property. The county commissioners or township trustees may by unanimous vote, order the construction of sidewalks along the public highway without a municipal corporation, without a petition therefor, and may assess all or any part of the cost thereof against abutting property owners, provided, however, that notice shall first be given by publication for three successive weeks in some newspaper of general circulation within the county, stating that it is the intention of said county commissioners or township trustees to construct said sidewalks, and fixing a date for hearing on said improvement." (Remainder of section prescribes nature of notice).

Section 7206 G. C. reads:

"The county surveyor is hereby authorized to establish the grade and width of sidewalks constructed along the highways within the said county and outside of any municipal corporation therein situated, and to designate the character of construction, and shall have general supervision of the same. No provision hereinbefore made for the construction of sidewalks shall prevent the state highway commissioner, county surveyor or township trustees from granting permission to the abutting property owners to construct sidewalks in front of their properties and along the public highway, but such sidewalks shall be constructed subject to the approval of the proper authorities."

Clearly, the powers conferred on county commissioners and township trustees by these sections go no further than to ordering the making of the improvement. No power is conferred on either commissioners or trustees to enter into a contract. Your first question is accordingly answered by the statement that once the improvement is ordered by commissioners or trustees, the matter of entering into the contract rests with the county surveyor.

Your second question may be answered by reference to the case of *Longworth vs. Cincinnati*, 34 O. S., 101, dealing with a municipal street improvement. The second and third syllabi read:

"2. Where the surveying and engineering of such improvement were performed by the chief engineer of the city and his assistants, who were officers appointed for a definite period, at a fixed salary, which the law required to be paid out of the general fund of the city, the reasonable cost to the city, of such surveying and engineering, can not be ascertained and assessed upon the abutting property, as a necessary expenditure for the improvement.

3. If a superintendent of such improvement is necessary, and one is employed by the city for that particular improvement, the amount paid by the city for his services, may properly be included in the assessment."

The principles thus stated, when applied to your inquiry, and considered in connection with sections 2980 and 2981 G. C. as to the appointment of deputies and assistants in the county surveyor's office, result in the conclusion that no part of the services of the engineering, inspection or superintendence rendered by the county surveyor or any of his regularly employed assistants is to be included in the cost of the work for assessment purposes. If, however, the surveyor finds it necessary to provide for and procure inspectors and superintendents for the special purpose of carrying out a particular sidewalk improvement, the expense thus incurred may be charged to the project and included as an item of the cost to be apportioned between county (or township) and property owners.

Respectfully,
JOHN G. PRICE,
Attorney-General.

3740.

TAXES AND TAXATION—ACCRUED INTEREST IN UNITED STATES
GOVERNMENT BONDS IS NOT TAXABLE AS A CREDIT.

Accrued interest on United States Government Bonds is not taxable as a credit.

COLUMBUS, OHIO, November 20, 1922.

Tax Commission of Ohio, Columbus, Ohio.

GENTLEMEN:—The Commission has requested the advice of this department upon an inquiry raised by the Auditor of Cuyahoga County. The question is as to whether accrued interest due on United States Government Bonds is taxable as a credit.

In the opinion of this department the obligation of the United States to pay the interest springs from the same source as that by which it is bound to pay the principal. This department is unable to conceive of any rule of law which can be brought to the support of the claim that immunity from state taxation attaches to the right to receive the principal at maturity (which is the substance of the property represented by the bond itself) but does not attach to the right to receive the interest at the stipulated rate whether that right is evidenced by severable coupons or not.

The Commission is accordingly advised that accrued interest on United States Government Bonds is not taxable.

Respectfully,
JOHN G. PRICE,
Attorney-General.