

2767.

COUNTY COMMISSIONERS—DUTY TO REPAIR APPROACH TO BRIDGE  
OUTSIDE OF CITIES—INCLUDES STEPS TO SIDEWALK—EXCEPTIONS.

## SYLLABUS:

*It is the duty of county commissioners to keep in repair all approaches or ways to county bridges, including steps necessary to provide access for pedestrian traffic, providing that the cost of such repair exceeds the sum of fifty dollars.*

COLUMBUS, OHIO, October 20, 1928.

HON. L. B. BROWN, *Prosecuting Attorney, Kenton, Ohio.*

DEAR SIR:—This will acknowledge your recent communication as follows:

"I desire an opinion upon a question arising from the following facts:

Under Section 2421-1, Hardin County retains the entire funds levied for bridge purposes within the City of Kenton, Ohio. Several years ago bridges were built across the Scioto River by the county within the City of Kenton. At the time the bridges were constructed sidewalks were provided across the bridge. On one of the bridges there is a flight of steps leading up to the sidewalk upon the bridge. These steps are now in such condition that they need repair.

Question: Under Section 2422 of the General Code, is it the duty of the County to make these repairs, assuming that the repairs cost more than \$50.00?"

The sections of the Code pertinent to your inquiry are as follows:

Section 2421. "The commissioners shall construct and keep in repair necessary bridges over streams and public canals on state and county roads, free turnpikes, improved roads, abandoned turnpikes and plank roads in common public use, except only such bridges as are wholly in cities and villages having by law the right to demand, and do demand and receive part of the bridge fund levied upon property therein. If they do not demand and receive a portion of the bridge tax, the commissioners shall construct and keep in repair all bridges in such cities and villages. The granting of the demand, made by any city or village for its portion of the bridge tax, shall be optional with the board of commissioners."

Section 2421-1. "When the council of any city having a population not exceeding fifteen thousand or of a village shall cause to be filed in the office of the county auditor of the county in which such corporation is situated in whole or in part a certified copy of a resolution of such council demanding some portion of the county bridge fund levied upon property within such corporation, the county commissioners of such county may, by resolution, authorize the county auditor to draw his warrant upon the county treasurer in favor of such corporation for not to exceed sixty per cent of the county bridge fund then levied or collected, or in process of collection, upon the property in such corporation. Such fund so received by such corporation shall be used by it for the construction, repair and maintenance of any bridges and viaducts within such corporation."

Section 2422. "Except as therein provided the commissioners shall construct and keep in repair, approaches or ways to all bridges named in the preceding section. But when the cost of the construction or repair of the approaches or ways to any such bridge does not exceed fifty dollars, such construction or repair shall be performed by the township trustees."

I am assuming from your letter that the bridges in question were built by the county commissioners upon state or county roads located within the City of Kenton.

Under the provisions of Section 2421, supra, it was the duty of the county to construct these bridges. Your letter states that sidewalks were provided across the bridge in question and that there is a flight of steps leading up to the sidewalk upon such bridge. I am assuming that the steps were constructed by the county commissioners at the time of the construction of the bridge as a part of the improvement.

It is usual and ordinary procedure to provide a separate way across bridges for pedestrian traffic and, according to your statement, it was done in this instance. Roads and streets are provided not only for vehicular but also for pedestrian use and I am of the opinion that it was not only proper but necessary for the commissioners in constructing the bridge in question to provide for pedestrian traffic over the bridge and also for convenient access for pedestrians to the bridge.

The duty to keep in repair approaches or ways to all bridges constructed by the county commissioners is plainly placed in them by Section 2422, supra, provided that the repair costs in excess of fifty dollars (\$50.00). In my opinion a proper definition of the terms "approaches" and "ways" would manifestly include the means of access to the bridge for pedestrians as well as vehicles. That is to say, pedestrian use of highways is just as important as vehicular use and the duty of the county commissioners to provide therefor is equally mandatory. Accordingly, if the steps in question leading to the sidewalk upon the bridge are now out of repair and the cost thereof will exceed fifty dollars (\$50.00), I am of the opinion that it is the duty of the county commissioners to proceed.

The steps in question are manifestly properly appurtenant to the bridge itself and constitute one of the approaches thereto.

By way of specific answer to your inquiry I am of the opinion that it is the duty of county commissioners to keep in repair all approaches or ways to county bridges, including steps necessary to provide access for pedestrian traffic, providing that the cost of such repair exceeds the sum of fifty dollars (\$50.00).

Respectfully,

EDWARD C. TURNER,  
*Attorney General.*

2768.

APPROVAL, ABSTRACT OF TITLE TO LAND OF ALMA M. TEMPLETON AND ELSIE H. RADA, IN BEDFORD TOWNSHIP, CUYAHOGA COUNTY, OHIO.

COLUMBUS, OHIO, October 22, 1928.

HON. RICHARD T. WISDA, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—You have recently submitted for my examination and opinion a corrected abstract of title and corrected warranty deed executed by Alma M. Templeton and Elsie H. Rada and their respective husbands covering certain real property