

1659

AUTOMOBILE—COUNTY COMMISSIONERS—WITHOUT STATUTORY AUTHORITY TO SELL AUTOMOBILES AND ROAD MACHINERY OWNED BY COUNTY, PURCHASED BY THEM UNDER SECTIONS 2412-1, 7200 G. C.

SYLLABUS:

County Commissioners are without statutory authority to sell automobiles and road machinery owned by the county, and purchased by them under authority of Sections 2412-1 and 7200, General Code.

Columbus, Ohio, March 4, 1947

Hon. C. J. Borkowski, Prosecuting Attorney  
Jefferson County, Steubenville, Ohio

Dear Sir:

This will acknowledge receipt of your letter relating to the procedure to be followed by County Commissioners in selling automobiles and road machinery owned by the county. Your letter reads as follows:

“The County Commissioners of Jefferson County have requested an opinion from us as to the procedure of selling and

disposing of a used car belonging to the county of Jefferson. Further the procedure of disposing of road equipment used by the County Engineer's office.

We have been unable to find any statutory authority relative to the sale and disposition of the automobile and the machinery.

Is it necessary for the Commissioners to advertise for bids on the sale of these articles, or can they sell the automobile and machinery to any one?"

County Commissioners are statutory officers, and being creatures of statute have only such powers as are expressly conferred upon them by statute, or are implied as being necessary to carry into effect those expressly granted. See 11 O. Jur., 332; 32 O. Jur., 933; State, ex rel. Locher v. Hanning, 96 O. S., 97; Opinions of the Attorney General for 1930, p. 1471; for 1937, p. 15; for 1944, pp. 44 and 47; and for 1946, No. 1398.

While County Commissioners are expressly authorized by Section 2412-1, General Code, to purchase motor vehicles for the use of the county officers therein mentioned, and by Section 7200, General Code, to purchase automobiles for the use of the County Engineer and his assistants when on official business, and this latter section also expressly authorizes the Commissioners to purchase road machinery and equipment which shall be under the care and custody of the County Engineer, I am unable, the same as you, to find any statute which either expressly or by necessary implication authorizes the Commissioners or County Engineer, or any other county officer for that matter, to sell county-owned automobiles and road machinery under any circumstances.

Ample power has been conferred upon the Commissioners by Section 2447, General Code, to sell and convey real estate owned by the county when not needed for public use, and the procedure to be followed in making such sales is prescribed by Section 2447-1, General Code, but, as already indicated, no such power of sale has been granted to the Commissioners with respect to personal property of the type referred to in your letter. In this connection, I quote the following from Opinions of the Attorney General for 1930, supra, which involved gravel taken from county-owned gravel pits:

"Section 2447, General Code, authorizes the County Commissioners to sell real estate not needed for public use, which indi-

cates that when the legislature intends the power of selling property to be exercised, it expressly so states.”

You are therefore advised that County Commissioners are without statutory authority to sell automobiles and road machinery owned by the county, and purchased by them under authority of Sections 2412-1 and 7200, General Code.

Respectfully,

HUGH S. JENKINS,  
Attorney General.