

"Statutes should be so construed as to give effect to the intention of the legislature, and, if possible, render every section and clause effectually operative."

Pancoast vs. Ruffin, 1 Ohio, 381, 386.

"A statute should be so construed, that the several parts will not only accord with the general intent of the legislature, but also harmonize with each other and a construction of a particular clause, that will destroy or render useless any other provision of the same statute, cannot be correct."

Allen vs. Parish, 3 Ohio, 187, 193.

It is a settled rule of construction that the intention of the lawmaker is to be deduced from a view of the whole, and every part of the enactment, taken and compared together. He must be presumed to have intended to be consistent with himself throughout, and at the same time to have intended effect to be given to each and every part of the law.

State vs. Blake, 2 Ohio St., 147, 151."

In conformity with the foregoing, you are advised in specific answer to your questions:

1. Section 6495, G. C. (being section 54 of the New Ditch Code, 108 O. L. [Pt. 1.] 926), applies to the joint county improvements mentioned in said code (section 6515, et seq.), as well as to single county improvements.

2. The notice provided for in said section 6495, G. C. is, as to joint county improvements, to be given by the auditor of the county or counties the member or members of whose board or boards of county commissioners own lands shown to be affected by the improvement petition, to the judge of the common pleas court of such county; and such judge is to make the appointments mentioned in said section from disinterested freeholders of that county.

Respectfully,

JOHN G. PRICE,

Attorney-General.

1453.

BRIDGES—CITY WITHOUT AUTHORITY TO MAKE ASSESSMENT AGAINST COUNTY ON ACCOUNT OF PAVING BY CITY A BRIDGE FLOOR, ALTHOUGH COUNTY COMMISSIONERS MAY BE UNDER DUTY OF KEEPING BRIDGE IN REPAIR, WHEN IT APPEARS COUNTY NOT OWNER OF LAND ABUTTING ON OR ADJACENT TO BRIDGE.

Even though a county through its board of county commissioners may be under the duty of keeping in repair a bridge within a municipality, such municipality is without authority to make an assessment against the county on account of the paving by the municipality of the floor of the bridge, when it appears that the county is not the owner of any land abutting on or adjacent to the bridge.

COLUMBUS, OHIO, July 23, 1927.

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

GENTLEMEN—You have recently submitted to this department the following statement and inquiry:

"A street extending through a city was originally a county road or turn-

pike. As such the county commissioners have constructed a concrete arch bridge 70 feet in length over a stream intersecting this street. The property lines on each side of this stream extend to the water line on each side. This street has been paved by action of the council, 98 per cent of the cost to be borne by the property owners.

Question: May a valid and enforceable assessment be levied against the county for 98 per cent of the cost of paving on this bridge?"

In addition to the foregoing you make reference to an opinion of this department of date December 24, 1919, now appearing in 1919 Opinions Attorney-General, Vol. II, page 1622; and you advise in response to a request for additional information that no action was taken by the board of county commissioners, either before or after the doing of the work, with reference to payment therefor; that a purported levy of assessment has actually been made against the county; that the county has not made payment of the whole or any part of the assessment; and that according to your information, the city, prior to the doing of the work served on the board of commissioners written notice of the passage of the resolution of necessity.

The basic provisions of law authorizing assessments by municipalities are found in the opening section of the chapter in the Municipal Code entitled "Assessments," the pertinent terms of which section are:

"Sec. 3812. * * * The council of any municipal corporation may assess upon the abutting, adjacent and contiguous or other specially benefited *lots and lands* in the corporation, any part of the entire cost and expense connected with the improvement of any street, * * * public road or place by grading, draining, curbing, paving * * * by any of the following methods:

First: By a percentage of the tax value of the property assessed.

Second: In proportion to the benefits which may result from the improvement, or

Third: By the feet front of the property bounding and abutting upon the improvement."

As will have been observed, said section authorizes assessments against "lots and lands" only. By no construction, however liberal, can these words "lots and lands" be held to include a bridge and its appurtenances such as described in your letter. Your letter indicates that the lands abutting the stream are privately owned, thus affording no basis of assessment against the county. The land constituting the bed of the stream cannot be considered the property of the county for the purposes of an assessment on account of benefits accruing.

In view of the foregoing, the conclusion results that no assessment may be made against county property on account of the paving on the bridge. The opinion of this department to which you call attention holds, among other things, that county commissioners are under the duty of keeping in repair certain bridges within municipalities; but it is plain that such duty on the part of the commissioners as to a given bridge does not supply the lack of authority in the municipality to assess for improving the bridge.

What has been said above is not intended as an expression of opinion in any way upon the question whether the county commissioners, if they deem it in the public interest, may take action looking to a reimbursement of the city for its expenditures on account of the paving in question.

Respectfully,
 JOHN G. PRICE,
Attorney-General.