

ever, it is believed that the duties of the surveyor under Section 5541-8 are substantially the same as his duties in the other sections hereinbefore referred to.

In view of the foregoing, it is my opinion that the county surveyor has no power to direct or order township trustees to improve or repair certain roads. Power to determine what township roads are to be improved or repaired is vested in such board of trustees alone.

Respectfully,
GILBERT BETTMAN,
Attorney General.

521.

COUNTY COMMISSIONERS—CONSTRUCTION OF ROAD AND BRIDGE AS PART OF IT SIMULTANEOUSLY—DURATION OF NOTICE BEFORE LETTING OF CONTRACT—REQUIREMENT WHEN BRIDGE PROJECT ALONE.

SYLLABUS:

1. *Under the provisions of Section 6911 of the General Code, as amended by the 87th General Assembly in the Norton-Edwards Act, the county commissioners may include the construction or reconstruction of necessary bridges as a part of a road improvement proceeding, but are not required to do so. When such a proceeding is undertaken, two weeks' notice is required to be given before letting the contract, as provided in Section 6945 of the General Code.*

2. *Section 6911 of the General Code has no application to bridges except in those cases where the construction or reconstruction of bridges forms a part of a particular road improvement proceeding instituted under said section.*

3. *When the commissioners are proceeding to construct or reconstruct a bridge separate and apart from a road improvement project, the provisions of Section 2343, et seq., of the General Code apply, and unless the cost of such bridge is less than one thousand dollars, four weeks' notice must be given before letting the contract.*

COLUMBUS, OHIO, June 14, 1929.

HON. MARCUS C. DOWNING, *Prosecuting Attorney, Findlay, Ohio.*

DEAR SIR:—Acknowledgment is made of your recent communication which reads as follows:

“Please advise if the county commissioners can sell a bridge and road in one proposal and advertise for a period of fifteen (15) days, the same as the State Highway Department is now doing.”

Sections 2343, et seq., of the General Code relate to the method of procedure by the county commissioners in the construction of bridges. Section 2343 relates to the making of accurate plans, etc., in the construction of substructures for bridges. Section 2344 relates to the preparation of plans, specifications, etc., when it is contemplated to construct a bridge superstructure. Section 2345 authorizes the commissioners to invite and receive proposals on any other plan at the option of the bidders under the circumstances defined therein.

Section 2352 provides:

"When plans, drawings, representations, bills of material, specifications and estimates are so made and approved, the county commissioners shall give public notice in two of the principal papers in the county having the largest circulation therein, of the time when and the place where sealed proposals will be received for performing the labor and furnishing the materials necessary to the erection of such building, bridge or bridge substructure, or addition to or alteration thereof, and a contract based on such proposals will be awarded. If there is only one paper published in the county, it shall be published in such paper. The notice shall be published weekly for four consecutive weeks next preceding the day named for making the contract, and state when and where such plan or plans, descriptions, bills and specifications can be seen. They shall be open to public inspection at all reasonable hours, between the date of such notice and the making of such contract."

From the above it is clear that in a case of the construction of a bridge, advertisement must be made for proposals for four consecutive weeks next preceding the day named for making the contract. However, Section 2353 provides an exception to Section 2352, supra, when the estimated cost of a bridge or bridge substructure or an addition or repair thereof does not exceed one thousand dollars. In such a case the section provides that notice of the letting may be given for only fifteen days by posting on a bulletin board or by writing on a blackboard in a conspicuous place in the county commissioners' or auditor's office, etc.

Consideration will now be given to the provisions of the statutes which relate to the construction of roads.

Sections 6906 to 7129-1 of the General Code, inclusive, constitute Chapter 5 and relate to "Road Construction and Improvement by County Commissioners." Section 6911, as amended by the 87th General Assembly (112 O. L. 488) in the so-called Norton-Edwards Act, among other things, provides:

"The board of county commissioners may by resolution, which said resolution shall be adopted by a unanimous vote, find that the public convenience and welfare require the improving of any public road or part thereof by grading, draining, paving, straightening or widening the same and constructing or reconstructing any bridges and culverts necessary for such improvement, and in said resolution shall fix the route and termini of such improvement, and shall apportion the cost thereof, which shall be apportioned and paid in any one of the methods provided for by Section 6919 of the General Code.

* * * "

The section further provides the procedure in reference to preparation of plans, etc. This section would seem clearly to include a bridge as part of a road construction project when instituted under the authority of said section. The legislative history of said section seems to indicate such an intent, as the section before last amended made no reference to the construction or reconstruction of bridges and culverts. Obviously, there could be no other purpose in including such reference in the language of such section unless such bridges and culverts are to be regarded as a part of such road construction to be undertaken by the commissioners under the authority of said sections.

Section 6912 provides for the filing with the county commissioners of copies of surveys, etc., and estimated assessments upon lands benefited thereby. Thereupon, the county commissioners shall cause to be published a notice with reference to the resolution and the filing of the surveys, estimated assessments, etc. Section 6912-1 relates

to the approval and confirmation of such assessments. Section 6913 relates to the procedure to be followed in the appropriation of property necessary for such construction.

Without undertaking to discuss further in detail the proceedings to be followed in connection with the improvement of roads under the sections of the Code hereinbefore mentioned, your attention is directed to Section 6945 as amended by the 87th General Assembly (112 O. L. 493), which said amendment was also a part of the Norton-Edwards Act, and which provides that after the commissioners have decided to proceed with said improvement "they shall advertise for bids once not later than two weeks prior to the date fixed for the letting of contracts in a newspaper published and of general circulation in said county." etc. It therefore must be concluded that under the provisions of Sections 6911, et seq., of the General Code, county commissioners may include within one proposal a road construction project which includes bridges and culverts thereon. Under such proceedings, by the provisions of Section 6945, two weeks' notice is required to be given for the letting of the contract. However, it is believed that in the event a bridge construction is contemplated, and such project does not include the construction or reconstruction of a county road, under such circumstances the provisions relating to bridges apply and should be followed. This conclusion must be correct, for the reason that the Legislature did not see fit to repeal such sections, and they must, therefore, have application in cases wherein a bridge is being constructed or reconstructed without being a part of any road improvement.

Based upon the foregoing, and in specific answer to your inquiry, it is my opinion that:

1. Under the provisions of Section 6911 of the General Code, as amended by the 87th General Assembly in the Norton-Edwards Act, the county commissioners may include the construction or reconstruction of necessary bridges as a part of a road improvement proceeding, but are not required to do so. When such a proceeding is undertaken, two weeks' notice is required to be given before letting the contract, as provided in Section 6945 of the General Code.

2. Section 6911 of the General Code has no application to bridges except in those cases where the construction or reconstruction of bridges forms a part of a particular road improvement proceeding instituted under said section.

3. When the commissioners are proceeding to construct or reconstruct a bridge separate and apart from a road improvement project, the provisions of Section 2343, et seq., of the General Code apply, and unless the cost of such bridge is less than one thousand dollars, four weeks' notice must be given before letting the contract.

Respectfully,

GILBERT BETTMAN,
Attorney General.

522.

APPROVAL, LEASE TO OFFICE ROOMS IN PURE OIL BUILDING,
COLUMBUS, OHIO.

COLUMBUS, OHIO, June 14, 1929.

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

DEAR SIR:—This is to acknowledge receipt of your communication of even date herewith, enclosing for my examination and approval a certain lease in quadruplicate,