

414.

APPROVAL, FINAL RESOLUTION ON ROAD IMPROVEMENT, LIMA-BELLEFONTAINE ROAD, I. C. H. NO. 130, LOGAN COUNTY, OHIO.

COLUMBUS, OHIO, April 29, 1927.

HON. GEORGE F. SCHLESINGER, *Director, Department of Highways and Public Works, Columbus, Ohio.*

415.

SPECIAL ASSESSMENT—STATUTE OF LIMITATIONS DOES NOT APPLY TO AN ACTION BROUGHT UNDER SECTION 2667, GENERAL CODE—WHO MAY BRING ACTION.

SYLLABUS:

Under the provisions of Section 2670, General Code, there is no statute of limitations applying to an action brought under Section 2667, General Code, to enforce the lien of a special assessment charged against real estate, and such an action may be brought to enforce a lien for a special assessment levied by either the Director of Highways and Public Works or county commissioners to pay the portion of the cost of the construction and improvement of an intercounty highway, authorized by law to be charged against the benefited property.

COLUMBUS, OHIO, April 29, 1927.

HON. C. O. TURNER, *Prosecuting Attorney, Coshocton, Ohio.*

DEAR SIR:—Receipt is acknowledged of your letter of recent date, which reads as follows:

“I am writing you asking if the statute of limitations runs against a special assessment for the improvement of I. C. H. and if so, when does the statute begin to run? See 31 O. S. 652, Section 11222 G. C.”

In your letter you address two inquiries for my consideration:

1. Whether the six year statute of limitations (Section 11222, General Code,) runs against a special assessment levied against abutting property for the improvement of an intercounty highway, and

2. If the statute of limitations applies, when does the statute begin to run?

The state of Ohio, acting through its Department of Highways and Public works, levies assessments against abutting property for the construction and improvement of an intercounty highway only in those cases when said department is proceeding without the co-operation of a county or some township thereof under and by virtue of authority vested by Section 1191 of the General Code.

The pertinent part of Section 1191 reads as follows:

“* * * If the county commissioners or township trustees do not make application for the apportionment to such county on or before the first day of May then the state highway commissioner shall enter upon