

2091.

ROAD IMPROVEMENT—LEGISLATION STARTED BY COUNTY COMMISSIONERS IN 1926—SECTION 1214, GENERAL CODE, AS IT THEN READ, GOVERNS LEVYING OF ASSESSMENTS.

SYLLABUS:

The provisions of Section 1214, General Code, as in force and effect in the year 1926, should govern proceedings now to be taken in connection with levying assessments to pay a part of the cost of the improvement of an intercounty highway, the proceedings for which became pending in the year 1926.

COLUMBUS, OHIO, July 15, 1930.

HON. BENJAMIN F. PRIMMER, *Prosecuting Attorney, Hamilton, Ohio.*

DEAR SIR:—In your communication of recent date you request my opinion upon the applicability of the provisions of Section 1214, General Code, as in force and effect in the year 1926, to proceedings for the levy of assessments to pay a portion of the cost of a road improvement. You state that the improvement in question has been completed and that the first legislation for the improvement was passed by the board of county commissioners in the year 1926. Since the section involved is one of the group of sections relating to the improvement of what were then referred to as intercounty highways as cooperative projects between the county and the state, I assume that application for state aid was made in the year 1926 under the then provisions of Section 1191, General Code. As you mention in your letter, Section 1214, General Code, was amended by both the 87th and 88th General Assemblies, and the question becomes one of whether or not the provisions of Section 1214, as in force and effect in 1926, would now apply to the steps to be taken in levying assessments for the road improvement in question.

This office has consistently held that upon filing application for state aid for the improvement of an intercounty highway, the proceedings for such improvement are pending within the meaning of Section 26, General Code, and the sections of the law relative thereto should govern such proceedings notwithstanding the fact that they may have, during the pendency of such proceedings, been amended or repealed. Opinions of the Attorney General, 1928, Vol. I, p. 638, Vol. II, p. 1196 and Vol. III, p. 1921.

In view of the foregoing and in specific answer to your question, it is my opinion that the provisions of Section 1214, General Code, as in force and effect in the year 1926, should govern proceedings now to be taken in connection with levying assessments to pay a part of the cost of the improvement of an intercounty highway, the proceedings for which became pending in the year 1926.

Respectfully,
GILBERT BETTMAN,
Attorney General.

2092.

COUNTY COMMISSIONERS—NO LIABILITY FOR NEGLIGENCE IN MAINTENANCE OF STATE HIGHWAYS.

SYLLABUS:

County commissioners are not liable in damages by reason of negligence in the maintenance of state highways.