

This statute clearly gives to constables the authority to apprehend and bring to justice felons, disturbers of the peace and violators of the laws of the State, to suppress riots and keep and preserve the peace within *their respective counties*.

A constable appointed by a justice of the peace for a special purpose, by virtue of Section 3331, General Code, has the same authority as other constables in regard to carrying out the special purpose for which he is appointed.

Answering your inquiry specifically, I am of the opinion that a constable has the authority in the performance of his duties, as defined by Sections 3340 and 3345 General Code, to patrol the highways in any township in his county.

Respectfully,

GILBERT BETTMAN,
Attorney General.

136.

APPROVAL, BONDS OF VILLAGE OF WESTERVILLE, FRANKLIN COUNTY—
\$10,000.00.

COLUMBUS, OHIO, February 28, 1929.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.

137.

PROPERTY OWNERS—IMPROVEMENT ON MUNICIPAL STREETS—
MEANING OF THREE-FOURTHS IN INTEREST—WHAT INCLUDED
IN FRONTAGE.

SYLLABUS:

1. *The provisions of Section 3836, General Code, to the effect that three-fourths in interest of the property owners may petition for an improvement of a street, alley, or highway in a municipal corporation refers to three-fourths in number of the owners of property to be assessed and has no reference to the value of the property owned by such petitioners.*

2. *The provisions of Section 3836, General Code, to the effect that 60% of the foot frontage of property abutting upon a street may petition for an improvement of a street, alley, or highway in a municipal corporation refers to all the frontage of property abutting upon a street sought to be improved irrespective of whether or not a portion of such abutting property may be made up of corner lots which may front on a street other than the one to be improved and which may have a depth in excess of their frontage.*

COLUMBUS, OHIO, March 1, 1929.

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

GENTLEMEN:—This is to acknowledge receipt of your letter of recent date which is as follows:

“The pertinent part of Section 3836, General Code, as amended in 112 O. L., page 206, reads:

'When a petition subscribed by three-fourths in interest of the owners, or the owners of sixty per cent of the foot frontage of property abutting upon a street, alley, or highway of any description between designated points in a municipal corporation, is regularly presented to the council for that purpose, the entire cost of any improvement of such street, alley, or highway, including the cost of intersections and regardless of the limitations of Section 3820 of the General Code and without reference to the value of the lands of those who subscribed such petition, may be assessed and collected in equal annual installments, proportioned to the whole assessment, in a manner which may be fixed by the council.'

Question 1. Do the words 'three-fourths in interest' refer to the value of the property owned by the signers of the petition?

Question 2. Does 60% of the foot frontage apply to lots fronting on another street whose depths are along the proposed improvement?

Question 3. Does three-fourths in interest include the entire value of lots fronting on another street?"

In answer to question one, I call your attention to an opinion of this department under date of June 18, 1928, being Opinion No. 2244, to Hon. D. A. Baird, prosecuting attorney, Elyria, Ohio, copy of which is enclosed herewith. This opinion holds that the wording "three-fourths in interest of the owners" as contained in Section 3836, General Code, means "three-fourths of the owners interested in the improvement. That is to say, if there are twenty owners of property abutting upon the portion of the street to be improved, a petition signed by fifteen of them is sufficient to give jurisdiction to the council to act under Section 3836." I concur in this aforesaid opinion.

Your second question refers to the case of a corner lot fronting on a street other than the street sought to be improved under the provisions of Section 3836 of the General Code, and is applicable in case the depth of such lot lying along the proposed improvement is in excess of the frontage thereof.

The case of the *Village of Oakwood vs. Stoeklein*, 81 O. S. 332, is dispositive of this question. The syllabus is as follows:

"Since the municipal code passed October 22, 1902 (96 Ohio Laws, 20), repealed Section 2264, Revised Statutes, and defined the following mode of assessing the costs and expenses of street improvements, 'by the foot frontage of the property bounding and abutting upon the improvement,' the rule of assessment laid down in *Haviland et al., vs. City of Columbus et al.*, 50 Ohio St., 471, is abrogated, and municipalities are authorized to assess upon an entire lengthwise frontage of a lot abutting upon the improvement."

This ruling was later followed in *Youngstown vs. Fishel*, 89 O. S. 247.

I am, therefore, of the opinion, in answer to your second question, that the wording "60% of the foot frontage of property abutting upon a street," as found in Section 3836, General Code, refers to all of the frontage of property abutting upon a street sought to be improved irrespective of whether or not a portion of such abutting property may be made up of corner lots which may front on a street other than the one to be improved and which may have a depth in excess of their frontage.

In view of my opinion as set forth herein in answer to your first question to the effect that "three-fourths in interest" refers to the number of property owners rather than the value of property sought to be assessed, your third question need not be answered.

Respectfully,
GILBERT BETTMAN,
Attorney General.