

2890.

HIGHWAYS—ESTABLISHMENT OF ADDITIONAL MAIN THOROUGHFARES—SECTIONS 6310-30 AND 6310-32 OF THE GENERAL CODE CONSTRUED.

SYLLABUS:

1. *Under sections 6310-30 and 6310-32, General Code, it is mandatory that local authorities, in establishing additional main thoroughfares, shall erect appropriate signs not nearer than one hundred feet from the intersection of all highways intersecting such main thoroughfares.*

2. *The intersection of such thoroughfares is the ground common to such thoroughfares contained between the intersecting boundary lines thereof.*

COLUMBUS, OHIO, October 22, 1925.

HON. ALBERT H. SCHARRER, *Prosecuting Attorney, Dayton, Ohio.*

DEAR SIR:—I am in receipt of your communication, as follows:

"A question has arisen in the cities and villages of this county as to the erection of 'Stop' signs along main thoroughfares, and I request your opinion as to the interpretation of the following sections of the General Code:

"Section 6310-30. For the purpose of enforcing the road regulations referred to in this chapter, the main thoroughfare shall be understood to mean all sections of public roads and highways on which street cars or electric cars run and also all main market and inter-county highways within this state.'

"Section 6310-32. Local authorities shall have the right to designate by ordinance or resolution additional main thoroughfares and to designate what vehicles shall have the right of way at intersections of main thoroughfares; provided, however, that legible and appropriate signs be erected not nearer than one hundred feet from the intersection along all road and highways intersecting such main thoroughfares.'

"Apparently section 6310-30 defines what shall be main thoroughfares in all parts of Ohio. Section 6310-32 gives to local authorities the right to create additional main thoroughfares to those established by section 6310-30.

"The questions arise from the interpretation of the last clause of section 6310-32:

"Provided, however, that legible and appropriate signs be erected *not nearer* than one hundred feet from the intersection along all road and highways intersecting such main thoroughfares.'

"Does this provision refer to thoroughfares created by section 6310-30, or only to additional main thoroughfares created by local authorities under section 6310-32, or does it include thoroughfares created by both sections?

"Is the provision that the signs be erected 'not nearer than one hundred feet from the intersection' mandatory, or merely directory?

"If this provision is mandatory, is the intersection to be considered the center line of the main thoroughfare, the curb line, if it is a city or village street, or the property line?

"Will you kindly give me your opinion at the earliest date possible, as

the erection of the signs in this county is awaiting the interpretation of these sections of the Code."

Section 6310-30, General Code, as found in 110 Ohio Laws, 135, provides as follows:

"For the purpose of enforcing the road regulations referred to in this chapter, the main thoroughfare shall be understood to mean all sections of public roads and highways on which street cars or electric cars run and also all main market and intercounty highways within the state."

This section establishes the main thoroughfares throughout the state and provides that all public roads and highways on which street cars or electric cars run, and all main market and intercounty highways shall be main thoroughfares.

Section 6310-32 provides as follows:

"Local authorities shall have the right to designate by ordinance or resolution additional main thoroughfares and to designate what vehicles shall have the right of way at intersections of main thoroughfares; provided, however, that legible and appropriate signs be erected not nearer than one hundred feet from the intersection along all road and highways intersecting such main thoroughfares."

This section authorizes the local authorities to designate by ordinance or resolution additional main thoroughfares. The latter part of said section provides that appropriate signs shall be erected along all roads and highways intersecting such main thoroughfares, and your question is whether the provision in regard to erecting signs relates to the main thoroughfares established by local authorities or whether it relates to all main thoroughfares.

The latter part of section 6310-32 is a proviso; and the general rule of construction is that a proviso attaches only to the part of the section immediately preceding such proviso. Under this rule, the provision for erecting signs will apply only to the main thoroughfares established by local authority. The evident purpose in requiring such signs is to advise persons using the highways and roads that highways which are not by statute made main thoroughfares are so designated by ordinance or resolution. As all persons are presumed to know the general laws of the state, it is not necessary to state the main thoroughfares established by statute.

The proviso in the latter part of section 6310-32 is a limitation upon the rights of local authority to designate additional main thoroughfares. As this is a limitation, the same must be read with the first part of such section and would be mandatory in all cases in which local authorities designate additional main thoroughfares.

The proviso mentioned provides that such signs shall be "erected not nearer than one hundred feet from the intersection along all roads and highways intersecting such main thoroughfares." The question as to what is the intersection, for the purposes of this statute, is one which is not definitely established by this section.

It will be noted that said section 6310-32 uses the word "thoroughfare." This word has been defined to be a frequented way of course, especially a road or street by which the public have unobstructed passage, a highway, and no doubt is sufficiently generic to cover every public way.

The legislature, in the use of the word, was dealing, in part at least, with every character of public way; and without doubt when the legislation applies to ways within the limits of a municipal corporation it pertains to the public streets thereof,

and when referring to ways without the limits of a municipality it is used in the sense of public highways and roads.

“The extent of a street or highway is limited only by the boundary lines thereof. One part thereof which lies within its limits is as much a part of the street or highway as any other part thereof.”

Opinions of Attorney General for 1923, pp. 226-231.

With this view of the legislation, it would follow that in establishing main thoroughfares by local authorities, a condition precedent thereto is the erection of appropriate signs not nearer than one hundred feet from the intersection of boundary lines of such main thoroughfares. This conclusion is borne out when consideration is given to the fact that the section is a part of an act designed to protect the property and person of the traveling public which makes use of the streets and highways, both vehicular and pedestrian traffic.

Respectfully,
C. C. CRABBE,
Attorney General.

2891.

APPROVAL, FINAL RESOLUTIONS ON ROAD IMPROVEMENTS IN THE FOLLOWING COUNTIES: PUTNAM, MUSKINGUM, ADAMS, SANDUSKY, PORTAGE, HIGHLAND, HARRISON, WASHINGTON, WOOD, WAYNE, NOBLE, AND WILLIAMS.

COLUMBUS, OHIO, October 23, 1925.

Department of Highways and Public Works, Division of Highways, Columbus, Ohio.

GENTLEMEN:—I am in receipt of your letter of October 23, 1925, enclosing for my approval certified copies of final resolutions on the following improvements:

Putnam county, I. C. H. 491, Sec. E and Sec. Miller City, type A, of the Holgate-Miller City road.

Muskingum county, I. C. H. 348, Secs. M-2 and N, Zanesville-Caldwell road.

Adams county, I. C. H. 120, Sec. West Union, West-Union-Manchester road.

Sandusky county, I. C. H. 269, Sec. Ballville Bridge of the Fremont-Tiffin road.

Portage county, I. C. H. 474, Sec. E and F-1, Aurora-Warren road.

Highland county, I. C. H. 8, Sec. L-1, Chillicothe-Cincinnati road.

Harrison county, I. C. H. 506, Sec. C, Dennison National road.

Washington county, I. C. H. 7, Sec. Muskingum River Bridge, of the Ohio River Road.

Wood county, I. C. H. 220, Sec. E-1, Proposal No. 1; Sec. E-1, Proposal No. 2; Sec. F-2, Proposal No. 4; also, I. C. H. 282, Sec. F, Proposal No. 3, I. C. H. 220, Sec. F-2, Proposals 1, 2 and 3 were not enclosed.

Wayne county, I. C. H. 96, Sec. Smithville, Wooster-Akron road.

Noble county, I. C. H. 392, Sec. A-2, E-1 and Sarahville, of the Caldwell-Barnesville road.

Williams county, I. C. H. 21, Sec. A-1, Toledo-Angola road.