

2182.

TOWNSHIP TRUSTEE DESIGNATED UNDER SECTION 3370 G. C. MAY NOT RECOVER EXPENSES FOR OWN AUTOMOBILE, INCURRED IN PERFORMANCE OF HIS DUTIES.

SYLLABUS:

A township trustee who has been designated under section 3370 of the General Code, to have charge of the maintenance and repair of township roads within his township, and who, while acting under such designation, has used his own automobile, cannot be reimbursed for money expended for oil and gasoline while so engaged.

COLUMBUS, OHIO, January 29, 1925.

Department of Auditor of State, Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

GENTLEMEN:—Receipt is acknowledged of your letter of recent date in which you submit in substance, the following question:

“May a township trustee who has been designated under section 3370 of the General Code, to have charge of the maintenance and repair of township roads within his township, and who, while acting under such designation, has used his own automobile, be reimbursed for money expended for oil and gasoline while so engaged?”

In the maintenance and repair of the township roads, the township trustees may, under the provisions of section 3370 of the General Code, proceed in any one of the three methods set out in said section, namely:

“1. They may designate one of their number to have charge of the maintenance and repair of roads within the township, or

“2. They may divide the township into three road districts, in which event each trustee shall have charge of the maintenance and repair of roads within one of such districts, or

“3. They may appoint some competent person, not a member of the board of trustees, to have charge of the maintenance and repair of roads within the township, which person shall be known as township highway superintendent, and shall serve at the pleasure of the township trustees.”

When the trustees of the township appoint a township highway superintendent, under the provisions of section 3371 of the General Code, they shall fix his compensation for the time employed in the discharge of his duties, which compensation and all proper and necessary expenses, when approved by the township trustees, shall be paid by the township treasurer upon warrant of the township clerk.

When the trustees designate one of their number to have charge of the maintenance and repair of the roads of the township, the trustee so designated under the provisions of section 3372 of the General Code, shall receive two dollars and fifty cents for each day of service in the discharge of his duties, but the total compensation of any township trustee to be paid from the treasury under this and all other sections of the General Code, shall not exceed two hundred and fifty dollars.

It will be noted from the sections referred to that while there is provision for the payment of the proper and necessary expense of a township highway superintendent while in the discharge of his duties, there is no provision for the payment of any expense

whatever of a township trustee who has been designated to have charge of the maintenance and repair of the township roads within the township, incurred in the performance of his duties.

It is a rule of law that statutes providing for the compensation and expense of public officials cannot be enlarged, by implication, beyond their terms. This rule is established by a long line of cases, among them being:

Debolt vs. Trustee, 7 Ohio State, 237;
 Anderson vs. Commissioners, 25 Ohio State, 13;
 Strawn vs. Commissioners, 47 Ohio State, 404;
 Jones vs. Commissioners, 57 Ohio State, 189;
 Higgins vs. Commissioners, 62 Ohio State, 621;
 Richardson vs. Commissioners, 66 Ohio State, 108.

There is no statutory provision providing for the reimbursement of a township trustee who has been designated to have charge of the maintenance and repair of township roads within his township, for money expended for oil and gasoline in the use of his own automobile when engaged on such road work.

It would follow, therefore, and you are advised, that such township trustee may not be reimbursed for such expense.

Respectfully,
 C. C. CRABBE,
Attorney-General.

2183.

DISAPPROVAL, BONDS OF VILLAGE OF FAYETTE, FULTON COUNTY,
 \$5,000.00.

COLUMBUS, OHIO, January 28, 1925.

Re: Bonds, Village of Fayette, Fulton County, \$5,000, payable \$3,000 March 15, 1928, and \$2,000 March 15, 1929, 6%.

Department of Industrial Relations, Industrial Commission of Ohio, Columbus, Ohio.

GENTLEMEN:—I have examined the transcript submitted to this department in connection with the foregoing issue of bonds, and find I cannot approve the same for the following reasons:

1. The transcript discloses that the bonds were advertised for sale in one newspaper on May 5, 1921, for four publications thereafter, and in one newspaper on May 7, 1921, and giving notice of the sale of the bonds on June 2, 1921.

The second advertisement began on August 25th and 26th in two different newspapers and provided for the sale of the bonds on Sept. 9, 1921, and the bonds were sold pursuant to this last advertisement. The advertisement did not run for the full period of four weeks as required in section 5924 G. C., and in accordance with the opinion of the Supreme Court in 107-O. S., page 106, and I cannot approve the bonds as having been legally sold.

2. This issue of bonds consists of \$11,610 for the village portion and the sum of \$14,700 is chargeable to special assessments. The portion of the bonds for the village part must necessarily be issued under a different statute for the different proceedings and provisions for payment as in the case of special assessment bonds.