

pendation of the county surveyor in each county on a per diem basis calculated upon the yearly salary paid to the county surveyor by his county; and then make an allowance to the surveyor for each day he is engaged in work upon highways, bridges and culverts, under the control of the state. No objection is perceived to this plan. It is believed, furthermore, that an aggregate yearly maximum compensation might be fixed by you, beyond which the per diem payments will not be made.

Respectfully,  
 JOHN G. PRICE,  
*Attorney-General.*

2899.

MUNICIPAL CORPORATIONS—BUILDING DEPARTMENT OF CITY IS UNDER DIRECTOR OF PUBLIC SAFETY—ORDINANCE WHICH CONFERS SUCH POWERS ON PERSONS OR COMMISSIONS OTHER THAN SAID DIRECTOR IS VOID—CITY OF CANTON.

*Under the provisions of section 4368 G. C., the director of public safety is the chief administrative authority over the charity correction, and building departments of the municipality, and a city ordinance which confers such powers and duties on persons or commissions other than said director of public safety, is void and of no effect.*

COLUMBUS, OHIO, February 25, 1922.

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

GENTLEMEN:—Receipt is acknowledged of your letter of recent date, reading as follows:

“The city of Canton has a building department and passed ordinances defining the scope, authority and power of the building commission (copies of such ordinances are herewith enclosed). The question arises as to the authority of such commission sought to be granted by ordinance 4885, in view of the provisions of section 4368 G. C., that:

‘Under the direction of the mayor, the director of public safety shall be the executive head of the police and fire department; he shall be the chief administrative authority of the charity, correction and building departments, etc.’

*Question:* May such building commission be established by council with independent authority, or would such commissioner be subject to the authority of the director of public safety?”

The copy of Ordinance No. 4885 which you enclosed with your letter, reads as follows:

“ORDINANCE NO. 4885.

Ordinance No. 4885, defining the duties of the Building Commissioner of the City of Canton.

Be it ordained by the Council of the City of Canton, State of Ohio.

Section 1. The Building Commissioner of the City of Canton shall

have entire control of and jurisdiction over the Department of Buildings, and shall perform all the duties and exercise all the rights with regard to the Department of Building which have heretofore by ordinance been authorized to be performed or exercised by the Director of Public Safety and the Building Commission, or as may be from time to time directed by the Council, and said Building Commissioner shall be directly responsible to the mayor of said city. The Building Commissioner shall issue all permits for the erection, repair, remodeling, wrecking and shoring of buildings and plumbing and electrical work when in his opinion the ordinances, building code, the regulation of the Board of Health of said city and the laws of the State of Ohio, have been fully complied with. The Building Commissioner shall issue licenses and registration certificates to persons, firms or corporations applying for a license as a licensed plumber or registered electrical contractor or electrician, after said applicants have taken and successfully passed the examination provided for in Ordinances Nos. 4393 and 2082, and no temporary and preliminary license shall be issued to such applicants until they have fully qualified under said ordinances.

Section 2. All ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed.

Section 3. This ordinance shall be in force and effect from and after the earliest period allowed by law.

Passed May 2, 1921.

Attest:

W. EDGAR JACKSON,  
Clerk of Council.

Approved May 3, 1921,  
By H. R. WITTER, Mayor.  
CHAS. M. BALL,  
President of Council.

I, W. E. Jackson, Clerk of Council, do hereby certify that the foregoing ordinance was duly published according to law, in the Evening Repository and Canton Daily News, May 5, 1921.

W. EDGAR JACKSON,  
Clerk of Council."

Pertinent to your question section 4368 G. C. provides:

"Under the direction of the mayor, the director of public safety shall be the executive head of the police and fire departments. He shall be the chief administrative authority of the charity, correction and building departments. He shall have all powers and duties connected with and incident to the appointment, regulation and government of these departments except as otherwise provided by law. He shall keep a record of his proceedings, a copy of which certified by him shall be competent evidence in all courts."

An examination of the section quoted, clearly indicates that the legislature intended to vest in the director of public safety the supervision and control over the department of building, limited, it is true, by the proviso "except as otherwise provided by law." Since a search of the provisions of the General Code fails to disclose an abrogation of the particular powers in this respect, it is concluded that the force and effect of this section remains unimpaired. The ordinance of the city of Canton in question, drafted, no doubt, under authority of section 3636 G. C. seemingly makes other provision for the supervision and control of the department of building, by transferring this authority to the building commissioner, an officer created by act of ordinance of the municipality.

Under such circumstances, it obviously appears that the particular portion of

the city ordinance which vests the supervision and control of the department of building in the said building commissioner, is repugnant to the provisions of section 4368 G. C., which specifically confers such powers upon the director of public safety.

Arriving at such a conclusion, it logically follows that the city ordinance must give way to the statute, since by legal construction the latter has precedence over the former. You are therefore advised that in the opinion of this department, the powers and duties of the director of public service, relative to the department of buildings, as imposed upon said director by the provisions of section 4368 G. C. may not lawfully be abrogated by an ordinance of the municipality.

Respectfully,  
 JOHN G. PRICE,  
*Attorney-General.*

2900.

JUVENILE COURT—DEPENDENT CHILDREN TEMPORARILY COMMITTED BY SAID COURT TO BOARD OF STATE CHARITIES—WHEN SAID CHILDREN MAY IN TURN BE PLACED IN HOME OF PARENT BY SAID BOARD—HOW BOARD, CLOTHING AND NECESSITIES PAID FROM COUNTY TREASURY.

1. *Dependent children, temporarily committed by the juvenile court, to the care and custody of the board of state charities (now Department of Public Welfare, Division of Charities), under the provisions of section 1672 G. C. may in turn be placed temporarily in the home of a mother or parent by said board under the provisions of section 1352-3 G. C. for a period of time not to exceed twelve months, subject to the court's approval, when the mother or parent is morally a fit custodian, and the home provided by her is free from evil influences which may be considered detrimental to the child's welfare.*

2. *Under the provisions of section 1352-4 G. C. the amount of board paid for the care of such child, and the expense of providing suitable clothing and personal necessities is chargeable by the board of state charities (now the Department of Public Welfare, Division of Charities) to the county from which such child was committed, and the duty of the county treasurer, upon the warrant of the county auditor to pay such expense, is mandatory.*

COLUMBUS, OHIO, February 25, 1922.

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

GENTLEMEN:—Receipt is acknowledged of your letter of recent date reading as follows:

“You are respectfully requested to furnish this department with your opinion as to the legality of the following procedure:

A probate judge acting as judge of the juvenile court takes certain children from their homes and finds them to be dependent under the law; certifies or commits them to the Department of Welfare, formerly the State Board of Charities, from which department they are placed in their own homes in the custody of their parents. The Department of Welfare then