

3890.

PERSON APPOINTED TO FILL VACANCY IN OFFICE OF TOWNSHIP  
TRUSTEE IS APPOINTED FOR UNEXPIRED TERM.

SYLLABUS:

*In case of a vacancy in the office of township trustee the person appointed under provision of section 3262 of the General Code will fill such vacancy for the unexpired term for which he was appointed.*

COLUMBUS, OHIO, December 13, 1926.

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

GENTLEMEN:—I am in receipt of your communication as follows:

“Question: In case of a vacancy in the office of township trustee, will the person appointed by a justice of the peace of the township under the provisions of section 3262 G. C., fill such vacancy for the unexpired term or only until the next general election?”

Section 3262 of the General Code provides:

“When for any cause a township is without a board of trustees or there is a vacancy in such board, the justice of the peace of such township holding the oldest commission, or in case the commission of two or more of such justices bear even date, the justice oldest in years, shall appoint a suitable person or persons, having the qualifications of electors in the township to fill such vacancy or vacancies for the unexpired term.”

It will be noted that the above section provides for the filling of such vacancy for the unexpired term. Section 3268 of the General Code provides:

“Three trustees shall be elected biennially, in each township, who shall hold their office for a term of two years, commencing on the first day of January next after their election.”

In the case of *State vs. Metcalf*, 80 Ohio St., page 244, on page 265, of the opinion of Spear, judge, it was said:

“An unexpired term is not synonymous with a vacancy. The former is a remainder of a period prescribed by law after the portion of such time has passed.”

As by section 3268 the period prescribed by law for the office of township trustees is two years from the first day of January next after their election, and by application of the rule above laid down the unexpired term would be the remainder of the two-year term for which the trustee was elected and as section 3262 provides for the appointment for the unexpired term such appointment would be made until the first day of January upon which the term of the former officer expired.

Section 10 of the General Code provides as follows:

“When an elective office becomes vacant and is filled by appointment, such appointee shall hold the office until his successor is elected and qualified. Unless otherwise provided by law such successor shall be elected for

the unexpired term at the first general election for the office which is vacant that occurs more than thirty days after the vacancy shall have occurred."

By the above section when an elective office becomes vacant and is filled by appointment the appointee holds until his successor is elected and qualified. It further provides that unless otherwise provided the successor shall be elected for the unexpired term at the first general election for the office which is vacant that occurs more than thirty days after the vacancy. As section 3262 provides for the appointment to fill a vacancy in the office of trustee of the township for the unexpired term, it would seem that it is otherwise provided by law and that therefore no successor should be elected for the unexpired term.

You are therefore advised that in case of a vacancy in the office of township trustee the person appointed under provision of section 3262 of the General Code, will fill such vacancy for the unexpired term for which he was appointed.

Respectfully,

C. C. CRABBE,

*Attorney General.*

3891.

USE OF WORDS "MEMBER OF NATIONAL ASSOCIATION OF CERTIFIED PUBLIC ACCOUNTANTS," IS NOT A VIOLATION OF THE PROVISIONS OF SECTION 13176 G. C.

**SYLLABUS:**

*Where a party uses the words "Member of National Association of Certified Public Accountants" in connection with his advertising, without using the letters C. P. A., and does not in any wise hold himself out as being certified to practice under the laws of Ohio he is not amenable to section 13176 of the General Code.*

COLUMBUS, OHIO, December 13, 1926.

*State Board of Accountancy, Columbus, Ohio.*

GENTLEMEN:—You request my opinion upon a state of facts set forth in correspondence between the secretary of your board and Frank M. Smith and associates. It seems that the said Frank M. Smith and associates are practicing as public accountants and use the phrase upon their advertising "Member of National Association of Certified Public Accountants," and the question presented is whether or not this practice violates the provisions of section 13176 of the General Code, which provides:

"Whoever represents himself as having received from the state board of accountancy a certificate of his qualifications to practice as a public expert accountant as provided by law, or practices as a certified public accountant or uses the abbreviations 'C. P. A.' or other similar words or letters to indicate that he is qualified to practice in this state as a certified public accountant, without having received such certificate as provided by law, or, having had such certificate revoked as provided by law, continues to practice as a public accountant, shall be fined not less than ten dollars nor more than one hundred dollars for each offense."

After consideration it is believed that the vice referred to in this section is holding one's self out as a certified public accountant of the State of Ohio. Un-