

Beginning at a stone marked "T" and three hickories at the northwest corner of said Lot No. 6 and northwest corner of Lot No. 5 and in the south line of Lot No. 2; thence east, with the north line of Lot No. 6 and south line of Lots Nos. 1 and 2, 136 $\frac{3}{4}$  poles to a stake in the line; thence S. 117 poles to a stake; thence W. 136 $\frac{3}{4}$  poles to a stake in the west line of Lot No. 6 and east line of Lot No. 5; thence with said line between Lots 5 and 6, north 117 rods to the beginning. Containing one hundred acres (100), more or less.

After an examination of the abstract, it is my opinion that George A. Weaver has a good and merchantable title to said premises, subject to the 1927 taxes, the amount of which are not yet determined, which by the terms of the deed, as drawn, the grantee assumes.

The deed submitted has been executed by George A. Weaver, his wife, who releases her dower, under date of August 12, 1927. It is properly executed and acknowledged and will, when delivered, transfer a good title to the State of Ohio.

The abstract and deed are herewith returned.

Respectfully,  
 ° EDWARD C. TURNER,  
*Attorney General.*

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901.

APPROVAL, BONDS OF CHAGRIN FALLS VILLAGE SCHOOL DISTRICT,  
 CUYAHOGA COUNTY, \$30,000.00.

COLUMBUS, OHIO, August 22, 1927.

*Industrial Commission of Ohio, Columbus, Ohio.*

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902.

OFFICES—SUPERINTENDENT OF COUNTY HOME AND MEMBER OF  
 COUNTY BOARD OF EDUCATION INCOMPATIBLE—CIVIL SERVICE  
 LAW DISCUSSED.

*SYLLABUS:*

1. *A superintendent of a county home is required to give his full time to the duties of such position and therefore cannot serve as a member of the county board of education while serving as such superintendent.*

2. *A superintendent of a county home, who is in the classified civil service of the county, and who becomes a candidate for the office of member of the county board of education, violates the provisions of Section 486-23 of the General Code, and is subject to removal as such superintendent.*

COLUMBUS, OHIO, August 22, 1927.

HON. FRANK F. COPE, *Prosecuting Attorney, Carrollton, Ohio.*

DEAR SIR:—Permit me to acknowledge receipt of your request for my opinion reading as follows:

“Would like your opinion as to whether or not the Superintendent of the County Infirmary, which is under civil service, is for any reason, disqualified from holding position as a member of the County Board of Education.”

By the words “under civil service” as used in your letter, I assume that you mean in the “classified service” as distinguished from the “unclassified service”, and in view of the fact that the records of the State Civil Service Commission show that the Superintendent of the County Home in your county is in fact in the “classified service”, this opinion is written with this understanding.

The term “County Infirmary” is no longer employed, the name given to the institutions formerly so designated being changed to “County Homes” by Section 2419-3 of the General Code, which provides that all statutes in which the term “County Infirmary” is found shall be construed to read “County Home.”

The superintendent of such home is appointed by the county commissioners as provided in Section 2523 of the General Code, which reads as follows:

“The county commissioners shall appoint a superintendent, *who shall reside in some apartment of the infirmary or other buildings contiguous thereto*, and shall receive such compensation for his services as they may determine. The superintendent and matron shall each be allowed their actual necessary expenses incurred in the discharge of their official duties. The superintendent shall perform such duties as the commissioners impose upon him, and be governed in all respects by their rules and regulations. He shall not be removed by them except for good and sufficient cause. The commissioners may by resolution provide for the appointment by the superintendent of an assistant superintendent who shall perform such duties at the infirmary or elsewhere as may be prescribed by such superintendent. The commissioners shall not appoint one of their own number superintendent, nor shall and commissioner be eligible to any other office in the infirmary or receive any compensation as physician, or otherwise, directly or indirectly, wherein the appointing power is vested in such board.” (Italics the writer's.)

There are other sections of the Code which also place certain duties upon such superintendent, which sections are sufficient to show that such superintendent is required to give his entire time and attention to the duties imposed upon him by law. It is a universal practice that such superintendents are paid a yearly salary which is for the purpose of compensating them for the duties performed at all hours. There is no time that the superintendent is free to perform other public duties. To become a member of the county board of education would require him to serve the public in another capacity and take him from his duties during the time for which he is already receiving pay from the public treasury.

Your attention is directed to Section 486-23, General Code, which reads as follows:

"No officer, employe, or subordinate in the classified service of the state, the several counties, cities and city school districts thereof, shall directly or indirectly, orally or by letter, solicit or receive, or be in any manner concerned in soliciting or receiving any assessment, subscription or contribution for any political party or for any candidate for public office; nor shall any person solicit directly or indirectly, orally or by letter, or be in any manner concerned in soliciting any such assessment, contribution or payment from any officer, employe, or subordinate in the classified service of the state, the several counties, cities or city school districts thereof; *nor shall any officer or employe in the classified service of the state, the several counties, cities and city school districts thereof be an officer in any political organization or take part in politics other than to vote as he pleases and to express freely his political opinions.*" (Italics the writer's.)

It will be observed that this section expressly provides that no person in the classified civil service shall take any "part in politics other than to vote as he pleases and to express freely his political opinions." It therefore becomes necessary to consider what meaning must be given to "take part in politics." Webster's New International Dictionary defines the term "politics" as:

"1. The science and art of government; the science dealing with the organization, regulation, and administration of a state, in both its internal and external affairs \* \* \* \*

2. The theory or practice of managing or directing the affairs of public policy or political parties; hence, political affairs, principles, convictions, opinions, sympathies, or the like."

I am of the opinion that it was the intention of the legislature that no person in the classified civil service should become a candidate for office while holding such position. The provisions of the section forbid any such person, either directly or indirectly to be in any manner concerned in soliciting or receiving moneys or other contributions for any candidate for public office, and such provision, with the broad provision that such employe should not take any part in politics other than to vote as he pleases or to freely express his political opinions, is sufficient to show such legislative intent. There is nothing in the statute which would prevent the superintendent of the county home from becoming a candidate for election to the county board of education, but if he does so he will be subject to removal from the position of superintendent under the provisions of Section 486-23, General Code.

In this connection your attention is directed to a former opinion of this department reported in Opinions, Attorney General, 1916, Vol. 1, page 375, the second syllabus of which reads:

"The provisions of Section 486-23, G. C., as amended 106 O. L. 416, prohibit a person who is holding a position in the classified civil service from being an active candidate for an elective political office."

In the opinion at page 356, it was said as follows:

"The prohibitions in this statute are intended to prevent persons in the classified service from engaging in any conduct which is incompatible with

an independent and wholly disinterested service to the state. The legislature has the absolute right to determine upon what conditions any citizen shall hold a public office or employment. As one of the conditions for holding an office or employment in the classified service it is prescribed, as above noted, that the incumbent thereof shall not take part in politics. These conditions, therefore, prohibit an officer or employe in the classified service from engaging in any act or conduct which may be said to be taking a part in politics. It does not require an argument to sustain the contention that an active candidate for an elective office is taking a part in politics because the things for which a candidate stands under such circumstances and upon which he seeks support are of the very essence of politics and this is so whether such candidate represents a party in his campaign for such office or stands upon a platform of his own.

I am of the opinion, therefore, that an active candidate for an elective office is taking a part in politics within the prohibition of the statute quoted and that if he is at the same time holding an office or employment in the classified civil service he should resign therefrom or he would be subject to prosecution as provided by Section 486-28, G. C., as amended 106 O. L. 417."

It is therefore my opinion that a superintendent of the county home, who is in the classified civil service of the county, and who becomes a candidate for the office of member of the county board of education, violates the provisions of Section 486-23 of the General Code, and is subject to removal as such superintendent.

Respectfully,  
EDWARD C. TURNER,  
*Attorney General.*

903.

STATE CENTRAL COMMITTEE—AMENDED SENATE BILL NO. 122, DISCUSSED—STATE, DISTRICT, COUNTY AND CITY COMMITTEES SHALL ACT UNTIL AUGUST, 1928.

*SYLLABUS:*

*Under the provisions of Amended Senate Bill No. 122, providing for two members from each congressional district on the state central committee, one of whom shall be a man and one of whom shall be a woman, existing state, district, county and city committees shall continue to act and be recognized as such, until their successors are chosen at the primary election which will be held on the second Tuesday in August, 1928.*

COLUMBUS, OHIO, August 23, 1927.

HON. NETTIE B. LOUGHEAD, *Cincinnati, Ohio.*

(Committee on Privileges and Elections, Ohio Senate.)

DEAR MRS. LOUGHEAD:—This will acknowledge receipt of your recent communication requesting my opinion on Amended Senate Bill No. 122, providing for two members from each congressional district on the state central committee, one of whom shall be a man and one of whom shall be a woman. You inquire: