

East Liverpool to lie in Sections 1579-869 and 1579-870, General Code of Ohio, and these grants are special.

It has always been the law in Ohio that a court of equity has the inherent power to allow counsel fees to a party who brings into court a fund to be enjoyed in part by others. *Mason vs. Alexander*, 44 O. S., 318.

Courts of law have no power to tax attorney fees unless the power is conferred by express statutory authority. *Koelble, Admr. vs. Runyan*, 25 O. App., 426, fifth branch of syllabus.

Courts have no authority to make rules allowing attorney fees in the absence of a statute to that effect, as by so doing they are invading the province of the legislature.

I am of the opinion that the allowance herein referred to is without warrant in law.

Respectfully,

HERBERT S. DUFFY,  
*Attorney General.*

242.

TOWNSHIP TRUSTEES, CLERK—EXPENSES—CONVENTION  
OF TOWNSHIP TRUSTEES AND CLERKS—FUNDS FROM  
WHICH PAID.

*SYLLABUS:*

*It is not a violation of law for the Township Trustees of a township to allow and pay the expenses of the Township Clerk incurred while in attendance at the annual convention of The Association of Township Trustees and Clerks of Ohio, held in Columbus. Until a specific fund is designated by law out of which to pay such expense, it should be paid from the general fund of the township.*

COLUMBUS, OHIO, March 12, 1937.

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

GENTLEMEN: I acknowledge receipt of your communication of recent date with enclosures.

I note that you request the written opinion of this office upon the following statement of fact, viz:

“May a township clerk receive his expenses for attendance at the annual convention of the Association of Township Trustees and Clerks of Ohio, held in Columbus. If payable, from what fund?”

I further note your enclosures, viz., opinions of this office Nos. 5126 and 6064, rendered in the year 1936.

These opinions are reasonably recent and I find no subsequent statutory enactments requiring a departure from Opinion No. 5126, which is directly in point. In other words, if that opinion was a true expression of the law when rendered, it remains a true expression of the law today.

Opinion No. 5126 dealt squarely with your question except that it did not designate the fund out of which the per diem and expenses should be paid.

Opinion No. 6064 does deal with this feature, holding, and properly so, that inasmuch as the activities of the clerk therein referred to had sole relation to roads the per diem should be paid out of the county road and bridge fund.

The Board of Township Trustees, including its clerk, is one of the last vestiges of local self-government, whose activities should be encouraged, rather than discouraged, and I concur in both opinions of my predecessor. Permit me to quote the following from Opinion No. 5126, which I adopt as a part of this opinion :

“There is no express legal basis for such organizations or for the payment of salaries or compensation to public officials for attending meetings of such organizations but, \* \* \* it cannot be said as a matter of law, that when public officials, in the exercise of a sound discretion and in the absence of an abuse of that discretion determine it to be in the public interest to meet in organizations with other officials for the discussion of problems attendant upon, and the discussion of methods pertaining to the duties of their respective offices, they should not be paid the legal compensation fixed by law for the performance of their public duties; and it cannot be said as a matter of law, in my opinion, that they are not performing ‘service in the business of’ the subdivision which they represent, if in their discretion they determine that the public interest is served by such action. Of course, the discretion of officials in this respect, as well as any other, may be abused and carried beyond reasonable demands, but it cannot be said in my opinion, that the holding of a meeting once a year, and attendance at that

meeting by township trustees "for the purpose mentioned amounts to an abuse of discretion."

The duties of the clerk are so closely interwoven with those of the trustees, that I feel he should be accorded the same rights and privileges.

Township Trustees are authorized under Section 5646, General Code, to levy taxes for general township purposes and in the absence of specific statutory direction, I would be obliged to say that such expenses would necessarily be paid out of the general fund.

Respectfully,

HERBERT S. DUFFY,

*Attorney General.*

243.

APPROVAL—BONDS OF FAIRFIELD TOWNSHIP RURAL SCHOOL DISTRICT, COLUMBIANA COUNTY, OHIO, \$20,000.00 (Unlimited).

COLUMBUS, OHIO, March 12, 1937.

*Retirement Board, State Teachers Retirement System, Columbus, Ohio.*

GENTLEMEN :

RE: Bonds of Fairfield Twp. Rurel School Dist.,  
Columbiana County, Ohio, \$20,000.00 (Un-  
limited).

I have examined the transcript of proceedings relative to the above bonds purchased by you. These bonds comprise all of an issue of school building bonds dated February 1, 1937, bearing interest at the rate of 3% per annum.

From this examination, in the light of the law under authority of which these bonds have been authorized, I am of the opinion that bonds issued under these proceedings constitute a valid and legal obligation of said school district.

Respectfully,

HERBERT S. DUFFY,

*Attorney General.*