

mile of the Ohio River, fishing devices that are prohibited by the laws of the State of Ohio and also by the laws of the states having jurisdiction over the Ohio River, and such devices when so possessed may be confiscated under the provisions of Section 1450 of the General Code.

Respectfully,
GILBERT BETTMAN,
Attorney General.

1395.

COUNTY BUILDING COMMISSION—COMPENSATION FIXED BY COMMON PLEAS COURT AND PAID FROM COUNTY TREASURY ON SAID COURT'S APPROVAL.

SYLLABUS:

Persons appointed on a county building commission for the building of a county home, in accordance with Section 2333, General Code, should receive a reasonable compensation within the limitations fixed by the statute for the time actually employed, to be fixed by the Court of Common Pleas, and paid from the county treasury, upon the approval of said Court of Common Pleas.

COLUMBUS, OHIO, January 13, 1930.

HON. J. F. KUHNS, *Prosecuting Attorney, New Philadelphia, Ohio.*

DEAR SIR:—This will acknowledge receipt of your inquiry as follows:

“Under authority of Section 2333, G. C., our county commissioners determined to erect a county building known as our county home. The necessary proceedings were adhered to, and our judge of the Court of Common Pleas appointed four electors of the county, who, in connection with our county commissioners, erected and completed said county building. The question of their compensation is now a matter to be determined. Section 2334, G. C., provides:

‘The persons so appointed shall receive a reasonable compensation for the time actually employed, to be fixed by the Court of Common Pleas, and on its approval paid from the county treasury.’

The court has fixed the compensation. Is it the duty of the county commissioners to approve? If it is not their duty, who, by this section is required to approve?”

In 1904 an act was passed by the General Assembly, entitled:

“An Act to provide for a commission for building court houses.”

(97 O. L. 111). Section 1 of the act provided for the creation of a building commission in counties where the county commissioners had determined to erect a court house costing to exceed \$25,000. The said section fixed the powers of the commissioners and the manner of compensating the members of such a commission.

In 1906 the act was amended in some respects (98 O. L. 53), but it still applied to no county buildings other than court houses, and made no change with respect to the compensation to be paid to the members of a building commission of that kind.

The act of 1906 was carried into the Revised Statutes as Sections 794-1 to 794-5, inclusive, of the Revised Statutes of Ohio.

Upon the adoption of the General Code, in 1910, this particular act was codified as Sections 2333 to 2342, inclusive, of the General Code. Upon the adoption of this codification considerable modification was made in the terms of the law, the most marked being the change to the effect that the requirement for a building commission applied not only when it was determined to build a court house, but in cases of the building of "other county buildings."

With respect to the compensation of such a building commission, the original act passed in 1904 provided inter alia :

"Said persons so appointed shall receive a reasonable compensation for the time actually employed by them; said compensation to be fixed by the court of common pleas and paid on approval of said court."

As amended in 1906, the act in providing for the compensation of the members of the building commission, used the following language :

"Said persons so appointed shall receive a reasonable compensation for the time actually employed by them; said compensation to be fixed by the court of common pleas and paid out of the county treasury on the approval of the common pleas court."

Upon the codification of 1910, the provisions with reference to compensation were incorporated in Section 2334, General Code, which reads as follows :

"The persons so appointed shall receive a reasonable compensation for the time actually employed, to be fixed by the court of common pleas and on its approval paid from the county treasury. Their compensation in the aggregate shall not exceed two and one-half per cent of the amount received by the county from taxes raised or from the sale of bonds for the purpose of constructing the building."

It will be noted that the change made, upon the codification in 1910, in the phraseology of the statute relating to the compensation of members of the county building commission was that instead of providing in terms that the approval of the amount fixed by the Common Pleas Court should be made by the Common Pleas Court, the language used is "on its approval."

While the language of the codification can hardly be said to be ambiguous, its construction, even if we consider it to be ambiguous, will be the same in any case. If it may be said that ambiguity exists by reason of a doubt as to whether the antecedent of the word "its" preceding the word "approval" in Section 2334, supra, is the "compensation for the time actually employed" or "the court of common Pleas," resort may properly be had to the terms of the statute before the codification, which, taken with the context of the act, will be determinative of the meaning of the language used.

Where language of a revision of statutes is ambiguous, resort may be had to the language of the former act, and in the absence of any circumstances showing a different legislative intent, the language of the former act will control in the interpretation of the revision. Lewis Sutherland on Statutory Construction, Section 450.

A revision or codification of statutes is presumed not to change the law if the language which they use fairly admits of a construction which makes it consistent with the former statutes, and it is a well settled rule that in the revision of statutes neither an alteration in phraseology nor the omission or addition of words in the latter statute shall be held *necessarily* to alter the provisions of the former act, except

when the intent of the Legislature to make such change is clear. Where no effect can be given to the new language in any other manner, the law will be construed to be changed.

The distinction, however, between a mere change of phraseology and the introduction of an entire clause into a statute, the apparent effect of which is to clearly qualify the former statute, is wide and clear, but a mere change in phraseology does not change the meaning previously borne by the statute unless the difference between the language of the two statutes evinces an intent to do so.

This rule is well established, and has been applied by the Supreme Court of Ohio in a number of cases. *State vs. County Commissioners*, 36 O. S. 326, 330; *State vs. Stockley*, 45 O. S. 304-308; *State vs. Stout*, 49 O. S. 270-284; *Collins, Executor vs. Millen, et al.*, 57 O. S. 289; Cyc. Vol. 36, page 1067.

There is nothing in the act in question, as codified in 1910, to indicate that the approval of the compensation fixed by the Court of Common Pleas for the members of a county building commission, should be otherwise than in the manner previously provided for, and the language of the codification apparently indicates that the approval of the compensation fixed should be by the court which had fixed the compensation.

I am therefore of the opinion, in specific answer to your question, that persons appointed on a county building commission for the building of a county home, in accordance with Section 2333, General Code, should receive a reasonable compensation within the limitations fixed by the statute, for the time actually employed, to be fixed by the Court of Common Pleas, and paid from the county treasury, upon the approval of said Court of Common Pleas.

Respectfully,
GILBERT BETTMAN,
Attorney General.

1396.

TRAFFIC SIGNAL LIGHTS—TOWNSHIP TRUSTEES MAY NOT INSTALL
SUCH LIGHTS ON ROADS.

SYLLABUS:

There is no legal authority for the township trustees to install traffic signal lights on either state, county or township roads.

COLUMBUS, OHIO, January 13, 1930.

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

GENTLEMEN:—Your recent communication reads:

“Section 6906, as amended, 112 O. L. 487, among other things provides as follows:

‘The board of county commissioners shall also have authority to purchase, erect and maintain automatic traffic signals, at such intersections of public highways outside of municipalities, as they deem necessary for the protection of the public traveling upon such highways; provided, however, such power and authority shall not extend to intersections of public highways on the state highway system unless the board of county commissioners first obtain the consent and approval of the director.’