

contract, job, work or services while in office, shall be fined  
 . . . . .”

The obvious and apparent meaning of the words so particularly and expressly selected is that any officer who *becomes* an employee of a contractor for a contract . . . *while in office* . . . shall be fined. The moment such a contract is made with the bank this treasurer becomes an employee of a contractor for services, etc.

In view of these facts, I am constrained to say that a violation of Section 12912, of the General Code is effected where a village treasurer serves as assistant cashier of a bank which becomes a public depository for active funds of the village.

It is therefore my opinion that:—

1. No violation of Section 12912, General Code is effected where a village treasurer serves as assistant cashier of a bank which becomes a depository for inactive funds of the village as the requirements for such contracts under Section 2296-1 et seq., General Code, include competitive bidding.

2. Where a village treasurer serves as assistant cashier of a bank which becomes a depository for active funds of the village, a violation of Section 12912, General Code, is effected.

Yours truly,

HERBERT S. DUFFY,

*Attorney General.*

1650.

BOARD OF TOWNSHIP TRUSTEES MAY NOT REIMBURSE  
 FORMER MEMBER FROM CURRENT YEAR'S APPROPRIATION.

*SYLLABUS:*

*A board of township trustees has no authority to reimburse from current year's appropriation a person who served as justice of the peace during the years 1932 to 1935, both inclusive, on account of such person having personally paid the premiums on his official bond during such years.*

COLUMBUS, OHIO, December 17, 1937.

HON. THEODORE TILDEN, *Prosecuting Attorney, Ravenna, Ohio.*

DEAR SIR: Your letter of recent date is as follows:

“Mr. X served as a Justice of the Peace in Portage County for a period of four years and during that time he paid the premium on his bond to a surety company. During the last month of his four-year term he requested the Township Trustees to refund to him the premium that he had paid over a period of four years.

The Justice served during the years 1932 to 1935, inclusive.

The question now arises whether the Township Trustees of a township, after the expiration of the term of a justice of the peace, can refund to a private person the premium that has been paid by such person on his official bond as justice of the peace.”

Section 9573-1, General Code, effective July 20, 1927, authorized the payment of the premium on a bond of a justice of the peace from township funds each year during his incumbency in office. Such section provides :

“The premium of any duly licensed surety company on the bond of any public officer, deputy or employe shall be allowed and paid by the state, county, township, municipality or other subdivision or board of education of which such person so giving such bond is such officer, deputy or employe.”

The question of the power to appropriate and pay current revenues for what would have been lawful expenditures during a previous year was considered in an opinion of this office appearing in Opinions of the Attorney General for 1927, Vol. 1, page 104, the first branch of the syllabus reading as follows :

“County commissioners cannot make appropriations to cover allowances made to county officers for the previous fiscal year.”

This opinion was predicated chiefly upon the then provisions of Section 5660 of the General Code, which, in so far as this question is concerned, have been contained since 1927 in Section 5625-33, General Code, being one of the sections of the Uniform Budget Act. In the body of the opinion at page 106, the then Attorney General said :

“It is true it is provided in Section 5649-3h that the appropriation measure may be amended from time to time within

the limits of the budget, but I know of no way that the county commissioners could after the first day of January of any year make an appropriation that would be retroactive. That is, after the end of any fiscal year the appropriating board could not amend an appropriation measure for the previous fiscal year so as to make funds available for use in accordance with the attempted amendment, nor could such board include in the appropriation made in any fiscal year allowances for expenditures in the previous fiscal year because the statute says that at the beginning of each fiscal year they shall make appropriations for expenditures for such fiscal year. To hold otherwise, would have the effect of completely nullifying the sections in question."

The foregoing opinion was followed in a later opinion appearing in Opinions of the Attorney General for 1928, Vol. II, page 1005, which dealt with the power of a board of county commissioners to pay from current year's appropriations claims based upon obligations of a previous fiscal year. Since the provisions of the Budget Law are applicable to townships as well as counties, this opinion, in which I concur, is likewise in point. The second branch of the syllabus reads as follows:

"County commissioners have no authority to pay from the current year's appropriation claims arising by reason of the procuring of supplies or material during the previous fiscal year."

It is believed that the foregoing opinions in principle are directly applicable to and therefore dispositive of the question here under consideration, assuming, as I do, that no appropriation was made of township funds during the years 1932 to 1935, both inclusive, for the payment of the premium of the justice's bond and that no certificates were issued as required by Section 5625-33, General Code. Your inquiry is accordingly answered in the negative.

Respectfully,

HERBERT S. DUFFY,  
*Attorney General.*