

noted that the superintendent of public works has only such powers and authority with respect to the public works of the state as are expressly conferred upon him by law or such as are necessarily implied for the purpose of carrying out the express powers granted to him as such officer. *The State of Ohio, ex rel., vs. The Cincinnati Central Railway Company*, 37 O. S. 157, 174.

Assuming to pass only upon the legal questions presented in the consideration of the present proposed lease to the village of Miamisburg of abandoned Miami and Erie Canal lands located within its limits, I find said lease to be substantially in accordance with the provisions of the act above referred to, providing for the abandonment and lease of Miami and Erie Canal lands, and with all other statutory provisions relating to the execution of leases of this kind. Said lease is accordingly hereby approved as is evidenced by my approval endorsed upon said lease and upon the duplicate and triplicate copies thereof, all of which are herewith returned.

Respectfully,

GILBERT BETTMAN,
Attorney General.

3036.

JUSTICE OF THE PEACE—OFFICE SPACE—TOWNSHIP TRUSTEES
NOT REQUIRED TO PROVIDE—FACILITIES OF TOWN HALL
SHOULD BE MADE AVAILABLE BY TRUSTEES FOR HOLDING OF
COURT BY THE JUSTICE.

SYLLABUS:

1. *A board of township trustees is not required to provide an office for a justice of the peace of the township.*

2. *Township trustees should make available, at reasonable times, the facilities of a town hall to a justice of the peace of the township for the purpose of holding court.*

COLUMBUS, OHIO, March 10, 1931.

HON. SCOTT GRAVES, *Prosecuting Attorney, Port Clinton, Ohio.*

DEAR SIR:—This will acknowledge the receipt of your communication of recent date, in which you make the following inquiry:

“The Village of Oak Harbor and the township of Salem jointly built a town hall. The control of the building is in the hands of the township trustees, except that a mayor’s office and a jail is provided for the use of the village. Must the township trustees provide an office for the justice of the peace of Salem township?”

An examination of the statutes of Ohio fails to disclose any requirements to the exact locality where justices of the peace shall hold court.

It is well settled in this state that in criminal cases such courts may be held outside of the township but within the limits of the county in which the township is situated. *Steele vs. Karb*, 78 O. S., 376; *Stiess vs. State*, 103 O. S., 33.

County commissioners, by the terms of Section 2418, General Code, are expressly authorized to provide suitable places for the holding of county courts,

but no such provision exists in reference to the establishment by township trustees of a place for the holding of a court by a justice of the peace, which is indicative of a legislative intent that the providing of the same should not be an obligation of the township. This conclusion is strengthened by consideration of the fact that township trustees are required by statute to furnish justices of the peace with certain facilities, such as a General Code and civil docket.

My predecessors have held that township trustees have no statutory authority to pay office rent for various officials of the township, including a justice of the peace. Opinions of the Attorney General for 1913, p. 384; Opinions of the Attorney General for 1915, p. 371.

If no authority to pay the office rent for a justice of the peace exists, it is reasonable to deduce from such lack of statutory enactment, and from the absence of express provisions for the purpose, that township trustees are under no mandatory duty to provide an office for a justice of the peace. In the case concerning which you inquire, however, there already exists a township hall, and I assume that it is suitable and, at least at times, available for other uses than those to which it is at present devoted.

Your attention is called to section 3397, General Code, concerning the control and leasing of a township hall. This section provides that the township trustees may, from time to time, lease so much thereof as may not be needed for township purposes. While the duties of a justice of the peace are not so engrossing as to justify making provision for a permanent office for him, yet it would seem that the holding of court by a justice of the peace constitutes a township purpose, and so, while there is no obligation to provide permanent quarters for the justice in the town hall, the trustees should make available to him the facilities of the hall at reasonable times for the purpose of holding court.

In specific answer to your inquiry, I am of the opinion that:

1. A board of township trustees is not required to provide an office for a justice of the peace of the township.
2. Township trustees should make available, at reasonable times, the facilities of a town hall to a justice of the peace of the township for the purpose of holding court.

Respectfully,

GILBERT BETTMAN,

Attorney General.

3037.

COUNTY EDUCATION EQUALIZATION FUND—SCHOOL DISTRICT
COMPOSED OF TERRITORY FROM TWO COUNTIES—METHODS
OF APPORTIONMENT IN COUNTY OF LEAST TERRITORY IN
DISTRICT OUTLINED—AMENDMENT OF 1929 FOR DETERMINING
PROPER APPORTIONMENT VOID FOR UNCERTAINTY.

SYLLABUS:

1. *In view of the provisions of Section 7600, General Code, as amended in 1929, Section 7600-1, General Code, in so far as it purports to provide a method of determining the proper apportionment of the 2.65 mills tax levy made by authority of Section 7575, General Code, to parts of a school district which is situated in two or more counties, is void for uncertainty.*
2. *When the actual enrollment of pupils residing in a part of a school*