

as to whether or not the purchase of the sewer in question and the construction of the contemplated extensions thereto may be consummated in a single proceeding under the provisions of Sections 3812, et seq., General Code. There are no facts before me indicative of any steps having been taken under Sections 3871, et seq., General Code, toward the establishment of sewer districts and I therefore assume that such districts have not been established. It may be noted that Section 3882, General Code, provides that council may provide for the construction of main drains and branch drains connecting therewith, without previously adopting any plan of sewerage or division of the territory of the municipal corporation into districts and may assess the cost and expense thereof upon such lots or lands as shall be designated in the ordinance to improve. It appears that there are provided in the same chapter of the General Code three different methods of procedure for the construction of sewers. I see no reason why in the event council should decide to proceed under Sections 3812, et seq., the purchase of the main trunk sewer and the construction of extensions may not be consummated as one procedure and assessments levied under any one of the methods outlined in Section 3812, General Code, subject, of course, to the limitations hereinabove commented upon, as contained in Section 3819.

In view of the foregoing, I am of the opinion that in the event a municipality purchases, without reservations as to future use, a privately owned main trunk sewer at a price equal to the actual cost of construction thereof, for the purpose of constructing extensions thereto, a portion of such purchase price, not exceeding a sum that in the opinion of council would be required to construct an ordinary street sewer of sufficient capacity to drain or sewer the lands served by the existing main trunk sewer, should be included within the cost of constructing extensions and assessed against all the property served, including that property already served by the existing main trunk sewer.

Respectfully,
GILBERT BETTMAN,
Attorney General.

1074.

OFFICES INCOMPATIBLE—STATE HIGHWAY INSPECTOR AND TOWNSHIP CLERK.

SYLLABUS:

A state highway inspector, being in the classified civil service of the state, may not hold the office of township clerk at the same time without violating Section 486-23, General Code.

COLUMBUS, OHIO, October 19, 1929.

HON. EMMITT L. CHRIST, *Prosecuting Attorney, Circleville, Ohio.*

DEAR SIR:—I am in receipt of your recent communication, which reads as follows:

“I submit the following inquiry for your opinion:

May a clerk of a township, while holding that office, legally hold the position of state highway inspector and draw a salary for said position, in addition to the fees granted him as said clerk?”

The office of township clerk is an elective one by virtue of Section 3299, General Code, which reads:

"A township clerk shall be elected, biennially, in each township, who shall hold his office for a term of two years, commencing on the first day of January next after his election."

The position of state highway inspector is authorized by Section 1182-2, General Code, which reads:

"The director may appoint additional clerks, and stenographers, and such other engineers, *inspectors* and other employes within the limits of the appropriation as he may deem necessary to fully carry out the provisions of this act; the salary of each of said employes to be fixed by the director within the limits of the appropriations made by the General Assembly. All employes and appointees hereinbefore mentioned in this act shall, in addition to their salaries, receive their actual necessary traveling expenses when on official business." (Italics the writer's.)

These inspectors are within the classified civil service unless one or more may have been removed therefrom by designation of the director under Section 486-8 of the Code. I am informed that no such designation has been made and, accordingly, these inspectors are all within the classified service.

Section 486-23, General Code, provides that "No officer, employe or subordinate in the classified service of the state * * * shall take part in politics other than to vote * * *."

The word "politics" is defined at p. 909, Vol. I, Cyc. as follows:

"Politics. In its true original meaning, a term which comprehends every thing which concerns the government of the country."

Elections are necessary in order to obtain officers to carry on the government. As stated in my opinion, No. 544, dated June 10, 1929, it is my view that any man is in politics who is appointed by an official administering government, and surely one who is elected by the people is in politics.

This department has held, in construing Section 486-23, General Code, that persons in the classified civil service could not be candidates for election to public office without resigning their positions in the classified civil service. Opinions of the Attorney General, 1914, p. 509; 1916, Vol. I, p. 375.

My immediate predecessor held (Opinions of the Attorney General, 1928, Vol. II, p. 1119), in considering this section:

"A person in the classified civil service of the state cannot be a candidate for the office of village councilman or hold said office by election or appointment without violating the provisions of Section 486-23, General Code."

These opinions clearly disclose that one may not hold a public office, whether elective or appointive, and at the same time be in the classified civil service of the state.

In view of the foregoing, I am of the opinion that a state highway inspector, being in the classified civil service of the state, may not hold the office of township clerk at the same time without violating Section 486-23, General Code.

Respectfully,

GILBERT BETTMAN,

Attorney General.