

contract as was done in the present case. Said Section 7699, General Code, after stating that the clerk shall notify the appointee and secure from him an acceptance or rejection of the appointment, states:

"An acceptance of it within the time thus determined shall constitute a contract binding both parties thereto until such time as it may be dissolved, expires or the appointee be dismissed for cause."

Inasmuch as Section 4740, General Code, was in effect on May 16, 1929, and until July 26, 1929, and a formal appointment of a superintendent was made by resolution of the board and such appointment was accepted prior to the effective date of the repeal of Section 4740, General Code, I am of the opinion that there existed between Mr. B. and the board of education of the school district in question a contract binding both parties thereto until such time as it may be dissolved, expires or the appointee dismissed for cause.

The inquiry thus resolves itself into the question of whether or not the repeal of Section 4740, General Code, served to dissolve the contract. In addition to the fact that the act of the Legislature providing for the repeal of Section 4740, General Code, provided also that that repeal should not affect any rights that might exist under the sections of the Code repealed at the date the act goes into effect, it is a well established principle of law that the repeal of a statute does not affect vested rights under it. Lewis Sutherland on Statutory Construction, Section 672.

In an opinion rendered by me under date of June 1, 1929, which opinion may be found in the published opinions of the Attorney General for 1929 at page 688, there was under consideration the validity of a contract made with a superintendent of schools by authority of Section 4740, General Code, which contract had been entered into on March 28, 1929. In the course of the opinion it is said:

"It may be noted that by the terms of House Bill No. 362 of the 88th General Assembly, Section 4740, General Code, was repealed, the repeal to become effective July 26, 1929. This fact, however, would make no difference in the instant case if the contract with the superintendent had been consummated prior to the effective date of the repeal of the statute."

I am therefore of the opinion in specific answer to your question, that the contract of employment with Mr. B., as superintendent of the schools of P. district for a period of three years beginning August 1, 1929, in accordance with the appointment made by resolution of the board of education of P. district passed on May 16, 1929, is a valid and legal contract binding both parties thereto until such time as it may be dissolved, expires, or the appointee be dismissed for cause.

Respectfully,  
GILBERT BETTMAN,  
*Attorney General.*

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2023.

OPTOMETRY—APPLICANT MUST BE TWENTY-ONE YEARS OF AGE  
TO TAKE EXAMINATION FOR SUCH PRACTICE.

*SYLLABUS:*

*A person under the age of twenty-one years may not, under the provisions of Sec-*

*tion 1295-28, General Code, be admitted to take the standard examination to practice optometry in this state.*

COLUMBUS, OHIO, June 24, 1930.

*The Ohio State Board of Optometry, Columbus, Ohio.*

GENTLEMEN :—Your letter of recent date is as follows :

“Two Ohio young men, otherwise qualified to take the Optometry Board examination, will not have reached the age of twenty-one until August 9 and December 19, 1930, respectively. It is a great disappointment to them that we have rejected their application to take the examination to be held June 26th, and 27th, 1930, which date you will note is prior to their becoming of age.

On this point, Section 1295-28 has been carefully observed by us in the past. They have asked us if it is possible for them to present themselves for examination now, provided their certificates are not issued, in the event they attain a passing grade, until after they reach their majority.

Your early reply, in order that we may notify them in time whether to appear on the 26th and 27th, will be greatly appreciated.”

Section 1295-28, General Code, provides insofar as pertinent as follows :

“Every person desiring to commence the practice of optometry shall take the examination provided in this act (G. C. Secs. 1295-21 to 1295-35) and fulfill the other requirements hereof as herein provided.

Any person over the age of twenty-one years, of good moral character, who has had a preliminary education equivalent to a four year course in a first grade high school, which shall be ascertained by examination or by acceptable certificate as to credentials for work done in such approved institution, and who has graduated from a school or college which maintains a course in optometry of not less than two years, shall be entitled to take a standard examination, provided said school or college of optometry is in good standing as determined by the board. \* \* \* Any person holding a limited certificate as provided in original Section 1295-28 of the General Code, shall be entitled to take the standard examination merely upon proof to the board that he is of good moral character, and is not addicted to the intemperate use of alcohol or narcotic drugs.”

I am of the view that this section is dispositive of your inquiry. The Legislature has seen fit to expressly provide in plain, unambiguous language that one of the qualifications which an applicant must have before he may take the examination therein provided is that he be over the age of twenty-one years. The statute does not provide that a person must be over twenty-one years of age before he may be admitted to practice. Were such the case, your board would undoubtedly be authorized to examine an applicant prior to his becoming of age.

The last sentence of Section 1295-28, *supra*, provides that any person holding a limited certificate, as provided in original Section 1295-28, General Code, shall be entitled to take the standard examination upon proof that he is of good moral character and not addicted to the intemperate use of alcohol or narcotic drugs. Original Section 1295-28 was passed March 20, 1919, 108 O. L., Part 1, p. 75. This section provided as originally enacted that any person who had been engaged in the practice of optometry for two years immediately prior to March 20, 1919, could take a limited examination. There was no requirement that to take the limited examination therein provided a person must have been twenty-one years of age. In order, however, that

this original section may be now pertinent to your inquiry, it follows that a person who is now under twenty-one years of age and desirous of taking the standard examination at this time must have started the practice of optometry at the age of eight or younger. The possibility of such a situation is so remote that I do not deem the last sentence of Section 1295-28, pertinent to your inquiry.

In view of the foregoing and in specific answer to your question, it is my opinion that a person under the age of twenty-one years may not, under the provisions of Section 1295-28, General Code, be admitted to take the standard examination to practice optometry in this state.

Respectfully,  
GILBERT BETTMAN,  
*Attorney General.*

2024.

APPROVAL, TEN RESERVOIR LAND LEASES TO LAND ADJACENT TO  
WATERS OF INDIAN LAKE.

COLUMBUS, OHIO, June 24, 1930.

HON. PERRY L. GREEN, *Director of Agriculture, Columbus, Ohio.*

DEAR SIR:—You will find enclosed herewith certain reservoir land leases, ten in number, which, together with a number of other reservoir land leases, you have submitted for my examination and approval.

By the enclosed leases above referred to, which have been executed by the Conservation Commissioner, there are leased and demised to the respective lessees therein named, subject to the conditions and restrictions therein provided, and for terms of fifteen years each, certain parcels of land adjacent to the waters of Indian Lake, which parcels of land are more particularly described in said respective leases.

The leases here in question, designated with respect to the names of the respective lessees therein and the appraised valuations of the several parcels of land covered by said leases, are the following:

<i>Lessee</i>	<i>Valuation</i>
E. C. Ring and F. A. DeLong-----	\$1,383 33
W. B. Randall-----	100 00
Mrs. Mary Schohl-----	466 67
Earl H. Summers and Charlotte M. Summers-----	200 00
S. J. Schwarzwald-----	100 00
P. Walther and J. W. Schnabel-----	700 00
C. H. Thomas-----	816 67
Lucy A. Worrell and Samuel A. Worrell-----	700 00
Lucy A. Worrell and Samuel A. Worrell-----	600 00
Samuel A. Worrell-----	283 33

Each and all of the above mentioned leases are executed under the authority of Section 471, General Code, as amended by the Conservation Act, passed by the 88th General Assembly.

Upon examination of the provisions of said leases, I find that the same are in conformity with the provisions of said section of the General Code and with other statutory provisions relating to leases of this kind.