

You have submitted the certificate of the Director of Finance to the effect that there are unencumbered balances legally appropriated in a sum sufficient to cover the obligations of the contract. You have also submitted evidence showing that the Controlling Board has released the funds for the purposes of this contract according to the provisions of Section 1 of House Bill 596 of the 89th General Assembly.

In addition, you have submitted a contract bond upon which the Royal Indemnity Company of New York appears as surety, sufficient to cover the amount of the contract.

You have further submitted evidence indicating that plans were properly prepared and approved, bids tabulated as required by law and the contract duly awarded. Also it appears that the laws relating to the status of surety companies and the workmen's compensation act have been complied with.

Finding said contract and bond in proper legal form, I have this day noted my approval thereon and return the same herewith to you, together with all other data submitted in this connection.

Respectfully,
 GILBERT BETTMAN,
Attorney General.

3516.

JURY CODE—EFFECTIVE AUGUST 2, 1931, AS TO APPOINTMENT OF JURY COMMISSIONERS—GRAND AND PETIT JURORS SERVE AND ARE DRAWN AND SUMMONED ACCORDING TO OLD LAW UNTIL JURY YEAR BEGINNING AUGUST 1, 1932—REPEAL OF STATUTES DISCUSSED.

SYLLABUS:

1. *Amended Senate Bill No. 184 of the 89th General Assembly, known as the "Jury Code", becomes effective August 2, 1931, in so far as it directs the appointment of jury commissioners in compliance therewith within thirty days after its effective date, although the jury list to be compiled in accordance with the act does not constitute the regular jury list from which jurors for service are to be selected until the jury year beginning August 1, 1932.*

2. *Until the jury year beginning August 1, 1932, grand and petit jurors for service in courts of record shall continue to be drawn and summoned and shall serve as now provided by law. Thereafter, they shall be drawn and notified, and shall serve as prescribed by the "Jury Code" as enacted by the 89th General Assembly.*

3. *All statutes inconsistent with the "Jury Code" are either expressly or impliedly repealed.*

COLUMBUS, OHIO, August 21, 1931.

HON. JAMES M. AUNGST, *Prosecuting Attorney, Canton, Ohio.*

DEAR SIR:—I am in receipt from you of the following request for my opinion:

"May the Common Pleas Court commence to function at once under the new jury code or must they proceed under the old one? There has been no repeal of the old jury code."

By the "new jury code", you undoubtedly refer to the enactment of the 89th General Assembly, known as amended Senate Bill No. 184, passed April 10, 1931, effective August 2, 1931. Section 11419-1, General Code, as enacted therein, reads in part:

"This act shall be known and may be cited as The Jury Code, * * *

The title of this act is as follows:

"AN ACT

To revise, supplement and recodify the laws of Ohio relative to the method of summoning and electing jurors, and to amend sections 3007 and 3007-1 of the General Code, and to repeal existing sections 11419 to 11474 inclusive, and section 11431-1 and sections 12829, 12830, 12867, 3007, 3007-1 and 3008, of the General Code."

By the terms of this act, there are enacted sections 11419-1 to 11419-54, inclusive, 11420-1 to 11420-20, inclusive, and 11421-1 to 11421-6, inclusive, of the General Code, Sections 3007 and 3007-1, of the General Code, are amended and a number of the present existing sections of the General Code, relating to matters similar to those treated of in the new sections enacted, were repealed as will be noted from the title of the act quoted above.

As indicated by its title, the act in question relates to the method of summoning and selecting jurors, and the obvious intent of the act, so far as those matters are concerned, is to provide a substitute for the present existing sections of the Code, which deal with the same subject matter, inasmuch as the express language of the title of the act manifests an intent to revise, supplement and recodify the laws of Ohio relative to that subject.

The act provides for the appointment of jury commissioners, deputies and clerks in each county of the state, whose duty it shall be to compile annually lists of judicious and discreet persons bearing the qualifications of electors, which lists are to constitute the annual jury lists. It further provides for the placing of the names contained in these lists in jury wheels and for the method of drawing names from such jury wheels, which names shall be the names of persons who are to serve as jurors from time to time.

It should be noted that, although the judge or judges in each county are required to set up the machinery provided by this code for the selection of juries by the appointment of jury commissioners within thirty days after the act becomes effective the commissioners are not required to compile the first list of prospective jurors, and place them in the jury wheel in compliance with the act until the first Monday of August, 1932, and that this list shall constitute the annual jury list for the jury year beginning August 1, 1932. Provision is made for the selection of juries in the meantime by Section 11419-40, of the General Code, as enacted in said act. Said section 11419-40, of the General Code, reads as follows:

"Grand and petit jurors for courts of record shall continue to be drawn and summoned, and shall serve as now prescribed by law until the making and filing of the lists and the preparation and deposit of the ballots as provided for in this act. And thereafter they shall be drawn and notified, and shall serve as prescribed in this act."

This act contains many provisions with reference to matters other than those noted in its title. These matters are not pertinent to your inquiry and therefore will not be discussed in this opinion.

Present sections 11419 to 11446, inclusive, of the General Code, which relate to the methods of summoning and selecting jurors, now in force, are specifically

repealed by the terms of the act and will therefore be inoperative after the effective date of the act except as their provisions are retained by force of section 11419-40, *supra*.

The act does not contain a clause such as is often included in acts of the legislature, to wit:

“All provisions of law (or acts and parts of acts) inconsistent herewith are hereby repealed.”

Even without that specific provision, however, it is the settled law of this state that an act of the legislature that fails to repeal, in terms, existing statutes on the same subject matter must be held to repeal the same by implication if the later law is in direct conflict therewith, or if the subsequent act revises the whole subject matter of the former act and is evidently intended as a substitute for it. See *Goff et al. v. Gates et al.*, 87 O. S. 142; *Rabe v. Board of Education*, 88 O. S. 402; *State ex rel. Enos v. Stone*, 92 O. S. 63; *Sylvain Busses, Inc. v. City of Toledo*, 118 O. S. 187.

I am of the opinion, in specific answer to your question, that common pleas courts throughout Ohio, are required to comply with the provisions of amended Senate Bill No. 184, of the 89th General Assembly known as the “Jury Code” as soon as the same becomes effective, to the extent of appointing jury commissioners provided for therein in accordance with said act and that the selection of jurors, after the effective date of said act, is to be made in accordance with the terms of said act.

I am further of the opinion, that all provisions of law inconsistent with the provisions of this act are either specifically, or by implication, repealed.

Respectfully,

GILBERT BETTMAN,
Attorney General.

3517.

APPROVAL—BONDS OF VILLAGE OF NEW LEXINGTON, PERRY COUNTY, OHIO—\$19,000.00.

COLUMBUS, OHIO, August 24, 1931.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.

3518.

APPROVAL, BONDS OF VILLAGE OF GROVEPORT, FRANKLIN COUNTY, OHIO—\$4,200.00.

COLUMBUS, OHIO, August 24, 1931.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.