

kind and number of vehicles required and the estimated cost of each such vehicle.

Upon the adoption of said resolution the board of county commissioners may purchase said vehicles for the use and purposes of the aforesaid persons or any of them. If the board of county commissioners deem it necessary to purchase a motor vehicle or vehicles for their use or for the use of any department under their direct control, application shall be made by them to a judge of the Court of Common Pleas of said county, who, if upon the hearing thereof finds it necessary and expedient to purchase such vehicle or vehicles shall so order, fixing the number and kind of such vehicles, and the amount to be expended for each."

And to Section 2412-2, General Code, which reads :

"When purchased, such vehicle or vehicles shall be for the use of the county commissioners, or other county officials, such use to be subject to the regulation of the county commissioners. Such vehicles shall be used by each such officials or said deputies and employes in lieu of hiring vehicles, in the manner otherwise provided by law unless the county vehicles are not available for use. When vehicles are so purchased, the county commissioners may purchase such supplies as may be necessary. Any vehicles heretofore acquired and now owned by the county shall be used as herein provided. All such vehicles shall be plainly and conspicuously lettered as the property of the county. No official or employe shall use or permit the use of any such vehicle or any supplies therefor, except in the transaction of public business or work of such county."

As provided by Section 2412-2, supra, such vehicle or vehicles as are purchased by a board of county commissioners under the authority of Section 2412-1, supra, shall be "for the use of the county commissioners or other county officials," such use however, to be subject to the regulation of the county commissioners. There is no doubt but that a county coroner is a county official and as such is entitled to use such vehicles, subject however, to such rules and regulations as the board of county commissioners may promulgate.

Respectfully,
EDWARD C. TURNER,
Attorney General.

2060.

VILLAGE COUNCIL—MEMBER UNAUTHORIZED TO HOLD OTHER OFFICES—NOTARY OF PUBLIC AND MEMBER OF STATE MILITIA EXCEPTIONS.

SYLLABUS:

1. *Under the provisions of Section 486-23, General Code, a person employed in the classified civil service of the state may not legally be a candidate for the office of member of council of a village, nor hold such office by election or appointment.*
2. *Under the provisions of Section 4218, General Code, no member of the council of a village may legally hold any other public office or employment, except that of*

notary public or member of the state militia. The inhibition contained in the provisions of this section is not limited to holding another office in, or employment by, such village, but such inhibition extends to all other public offices and employments.

COLUMBUS, OHIO, May 4, 1928.

The State Civil Service Commission of Ohio, Columbus, Ohio.

DEAR SIR:—This is to acknowledge receipt of your recent communication, which reads as follows:

“Section 486-23 of the General Code of Ohio provides that no employe in the classified service of the state, the several counties, cities and city school districts thereof, shall not take part in politics other than to vote as he pleases and to express freely his political opinions.

An employe of the state who has been in the service for several years and whose position is in the classified service was recently elected by council to a vacancy on the village council of P——, term ending January 1, 1930. Before the election of village officers there is a public meeting of the electors called regardless of political faith and candidates are named usually double the number to be elected and are all placed on one ballot without any political heading and in voting the electors simply place an X before the name of the candidate for whom they wish to vote. Naturally if it is known to what political party the candidate belongs electors may select candidates of their own politics.

The employe does not desire to jeopardize his classified civil service status. Under such circumstances as a member of the council or as a candidate for a position on the council is he violating the above mentioned section?”

The provisions of Sections 4215 and 4236, General Code, are pertinent to the consideration of the question presented in your communication on the facts therein stated. These sections read as follows:

Sec. 4215: “The legislative power of each village shall be vested in, and exercised by, a council, composed of six members, who shall be elected by the electors of the village at large, for terms of two years and shall serve until their successors are elected and qualified.”

Sec. 4236: “When the office of councilman becomes vacant, the vacancy shall be filled by election by council for the unexpired term. If council fail within thirty days to fill such vacancy, the mayor shall fill it by appointment.”

Section 486-23, General Code, referred to in your communication, provides:

“No officer, employe, or subordinate in the classified service of the state, the several counties, cities and city school districts thereof, shall * * * take part in politics other than to vote as he pleases and to express freely his political opinions.”

This department, in an opinion under date of April 24, 1914, Annual Report of the Attorney General for 1914, p. 509, construing and applying the above quoted provisions of Section 486-23, General Code, held that persons in the classified civil service could not be candidates for nomination for public office at primary elections, nor could they be candidates for election to public office at a general election without

resigning their positions in the classified civil service. In said opinion of this department, above noted, it is said:

"This section provides that no officer or employe in the classified service shall 'take part in the politics other than to vote as he pleases, and to express freely his political opinion.'

This provision prescribes the extent to which an officer or employe may take part in politics. He may vote as he pleases. He may express freely his political opinions. He is not given the right to become a candidate at a primary or at an election for officers.

The word 'politics' is defined at page 909 of volume 31 of Cyc. as follows:

'Politics. In its true original meaning, a term which comprehends everything that concerns the government of the country.'

Primaries and elections are necessary in order to secure officers to carry on the government, and a person who is a candidate at a primary or at an election would be taking part in politics within the meaning of Section 23 of the civil service act.

In the common acceptance of the meaning of the term 'politics' it means activity in government and activity in selecting candidates for office and the election of officers.

Therefore, a person in the classified service under the civil service law cannot be a candidate for office either at a primary or at an election and at the same time retain his position. If he becomes such a candidate it would be cause for removal from the position he holds as he accepts such position upon condition that he will not take part in politics."

Later this department, in an opinion under date of March 3, 1916, Opinions of the Attorney General for 1916, Vol. I, p. 375, held that the provisions of Section 486-23, General Code, prohibit a person holding a position in the classified civil service from being a candidate for an elective political office. Referring to the above quoted provisions of said section of the General Code, this opinion says:

"The prohibitions in this statute are intended to prevent persons in the classified service from engaging in any conduct which is incompatible with an independent and wholly disinterested service to the state. The Legislature has the absolute right to determine upon what conditions any citizen shall hold a public office or employment. As one of the conditions for holding an office or employment in the classified service it is prescribed, as above noted, that the incumbent thereof shall not take part in politics. These conditions, therefore, prohibit an officer or employe in the classified service from engaging in any act or conduct which may be said to be taking a part in politics. It does not require an argument to sustain the contention that an active candidate for an elective office is taking a part in politics because the things for which a candidate stands under such circumstances and upon which he seeks support are of the very essence of politics and this is so whether such candidate represents a party in his campaign for such office or stands upon a platform of his own.

I am of the opinion, therefore, that an active candidate for an elective office is taking a part in politics within the prohibition of the statute quoted and that if he is at the same time holding an office or employment in the classified civil service he should resign therefrom or he would be subject to prosecution as provided by Section 486-28, G. C., as amended 106 O. L. 417."

The question presented in your communication does not, in my opinion, call for any extended discussion. The provisions of Section 486-23, General Code, in stating what a person holding a position in the classified civil service may do, quite effectually states what he cannot do so far as your question is concerned. This section specifically provides that such person may vote as he pleases and that he may express freely his political opinions. It is quite evident that a person standing as a candidate for a public office or holding a public office is doing something more than voting and expressing his political opinions. The office of village councilman is an elective public office in no wise removed from politics in any sense of the word.

By way of specific answer to your question, therefore, I am of the opinion that 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, above quoted.

In connection with the question presented in your communication, the provisions of Section 4218, General Code, should be noted. This section reads as follows:

“Each member of council shall have resided in the village one year next preceding his election, and shall be an elector thereof. No member of the council shall hold any other public office or employment, except that of notary public or member of the state militia, or be interested in any contract with the village. Any member who ceases to possess any of the qualifications herein required or removes from the village shall forfeit his office.”

It will be observed that this section of the General Code provides that “no member of the council shall hold any other public office or employment, except that of notary public or member of the state militia.” You do not state the nature of the employment of the employe referred to in your communication but it is quite certain that he is holding some kind of public employment within the meaning of those terms as used in Section 4218, General Code. The inhibition contained in the provisions of this section against a member of the council of a village holding other public office or employment is not limited to an office in or employment by such municipality, but such inhibition extends to all public offices and employments. *State ex rel. vs. Gard*, 8 O. C. C. (n. s.) 599; 75 O. S. 606. Irrespective of the provisions of Section 486-23, General Code, above discussed, in the consideration of the particular question which you present, it is quite clear that under the provisions of Section 4218, General Code, above quoted, a person holding a position of public employment in the service of the state cannot, at the same time, legally hold the office of village councilman.

Respectfully,
EDWARD C. TURNER,
Attorney General.

2061.

SPECIFICATIONS—PUBLIC BUILDINGS—LEGALITY AND ILLEGALITY DISCUSSED.

SYLLABUS:

Where specifications for a building, for use by an institution supported by the state, specify the products of certain manufacturers to the exclusion of all others, and