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NO IRRECONCILABLE CONFLICT BETWEEN S. B. NO. 319, 101ST GENERAL ASSEMBLY, AND SECTION 505.21 R. C.—TOWNSHIP TRUSTEES—AUTHORIZED TO PURCHASE REVISED CODE FOR JUSTICE OF PEACE.

SYLLABUS:

There is no such irreconcilable conflict between (1) any provision of Senate Bill No. 319, 101st General Assembly, and (2) the provisions of Section 505.21, Revised Code, under the terms of which the township trustees are authorized to purchase a copy of the Revised Code for the use of a justice of the peace elected in and resident in the township concerned, as to effect the repeal of such latter provisions by implication.

Columbus, Ohio, September 12, 1956

Hon. C. E. Berry, Prosecuting Attorney
Athens County, Athens, Ohio

Dear Sir:

Your request for my opinion reads as follows:

“There has arisen in this county a question regarding the payment for code supplements for Justice of Peace.

“The question involved concerns Sec. 505.21 of the Revised Code which provides that the Township Trustees shall pay for the Justice of the Peace code and code supplement for their township. Whereas Ohio Revised Code 1907.01 and 1907.47 recently enacted governing Justice of the Peace states the County Commissioners shall pay said obligation. In view of the fact that Code Sec. 505.21 has not been repealed it would be greatly appreciated if you would give us your considered opinion as to whose liability it is to pay for these code supplements for the various Justices of the Peace in the townships.”

Section 505.21, Revised Code, referred to in your inquiry reads as follows:

“The board of township trustees may purchase for its use one copy of the Revised Code, or some standard work containing all the sections of the Revised Code applicable to township officers, with forms and citations for the guidance of such officers, to be paid for from unappropriated funds in the township treasury when there are sufficient unappropriated funds in the treasury. Such board shall purchase, for the use of each justice of the peace within the township who is not already supplied, one copy of the Revised Code. Such copies shall be the property of the township, and shall be so marked.”

Substantial statutory changes relative to the office of Justice of the Peace were effected by the enactment of Senate Bill No. 319, 101st General Assembly. Many of these changes were discussed in my Opinions Nos. 5791, 5805, 5951, 6122, and 6124, Opinions of the Attorney General for 1955, and Opinions Nos. 6256, 6361, 6449, and 6575, Opinions of the Attorney General for 1956, to which your attention is respectfully invited.

It would appear that you regard one or more of these new statutory

provisions to be in conflict with Section 505.21, *supra*, and specifically you regard the latter section to be in conflict with Section 1907.47, Revised Code, which reads as follows:

“The justices of the peace shall receive a fixed annual salary and such salary shall be determined by the board of county commissioners of the county in which such office of the justice of the peace is situated, and may include a fixed annual allowance for supplies, forms and equipment.”

It is a well established rule of statutory construction in this state that repeals by implication are not favored, and will be recognized only in those instances in which there is such a clear repugnancy that the two provisions in question cannot by a fair and reasonable construction be reconciled and effect be given to both. 37 Ohio Jurisprudence, 398, Section 136.

In the case at hand it will be seen that in Section 505.21, Revised Code, express provision is made in unmistakably plain language for the purchase of “one copy of the Revised Code,” whereas Section 1907.47, Revised Code, provides for the allowance of a salary sufficient to include an allowance for “supplies, forms and equipment.”

These provisions I do not regard as being in any way repugnant, for the former is for a work containing a codification of the statute law of Ohio, whereas the latter is for supplies, etc., which will be used, not as a legal guide, but which will be *used up* in the process of operations, and for equipment such as office equipment. I do not hesitate, therefore, to conclude that these provisions are not necessarily irreconcilable.

It may be that you have in mind an implied repeal of Section 505.21, Revised Code, because of the provision for an extension of a justice's jurisdiction beyond the limits of his township, and because of the provision for the payment of his salary by the county commissioners. I do not consider that any of these provisions are necessarily repugnant to Section 505.21, Revised Code, for the reason, as pointed out in my Opinion No. 6122, *supra*, that justices are still essentially township officers. In that opinion, you will observe, I held that under the provisions of Section 3929.17, Revised Code, the premium on a justice's bond should be paid by the trustees of the township “in which he is elected and where he resides” regardless of the circumstances that such officer might exercise civil jurisdiction within a district extending beyond the limits of the township in which he was elected.

Accordingly, it is my opinion that there is no such irreconcilable conflict between (1) any provision of Senate Bill No. 319, 101st General Assembly, and (2) the provisions of Section 505.21, Revised Code, under the terms of which the township trustees are authorized to purchase a copy of the Revised Code for the use of a justice of the peace elected in and resident in the township concerned, as to effect the repeal of such latter provisions by implication.

Respectfully,
C. WILLIAM O'NEILL
Attorney General