

The pertinent question involved in your inquiry is whether or not the petition formerly filed on February 16, 1929, may now be refiled with the county board of education, so as not only to confer jurisdiction on said board to act in accordance therewith, but as well to impose on said board the mandatory duty of transferring territory in accordance with the terms of the petition. The petition having been circulated and signed at a time when the territory described in the petition was not contiguous to the Delaware City School District, each signer at the time of signing was asking for something that was unauthorized and illegal, and, therefore, his signing was a complete nullity. I am, therefore, of the opinion that the petition at the time of its signing and filing was a complete nullity and will not be imbued with legality merely by reason of the fact that the territory described in the petition later became, by force of other transfers of territory, contiguous to the Delaware City School District.

I am, therefore, of the opinion that, in order to vest the Delaware County Board of Education with jurisdiction to transfer a portion of Troy Township to the Delaware City School District, it will be necessary to have signed and filed a new petition therefor.

Respectfully,  
GILBERT BETTMAN,  
*Attorney General.*

308.

GREEN LAW—CERTAIN PHRASE IN SECTION 6967, GENERAL CODE,  
CONSTRUED TO CONFORM TO LEGISLATIVE INTENT.

*SYLLABUS:*

*The phrase "Sections 6906 and 6956" contained in Section 6967 of the General Code, should be construed as "Sections 6906 to 6956." In other words, the context of the language of the section, in order to convey an intelligent meaning, and to carry out the purposes thereof, requires the substitution of the word "to" for the word "and" in said phrase.*

COLUMBUS, OHIO, April 15, 1929.

*Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.*

GENTLEMEN:—Acknowledgment is made of your recent communication which reads:

"You are respectfully requested to furnish this department your written opinion upon the following:

Section 6967 of the General Code, relative to the construction of roads under the so-called Green Law, contains the following provision:

"The county shall pay not less than five hundred dollars per mile of said cost, such payment to be made out of the proceeds of any levy or levies made or to be made upon the grand duplicate of said county for the purpose of paying a county's proportion of the compensation, damages, costs and expenses of construction, reconstruction and improvement of roads under the provisions of Sections 6906 and 6956 of the General Code."

These two sections above mentioned do not provide for a tax levy and from the fact that in two other places in the section the term 'Sections 6906 to

6956' is used, it seems probable that the term '6906 and 6956' should be '6906 to 6956'.

Question: Under the rules of construction of statutes, may the words 6906 and 6956 be construed to be 6906 to 6956, in order that the county may legally contribute the proportion of the expense of a road indicated in this section?"

The only question your inquiry presents is whether in view of the circumstances, the word "to" may be substituted for the word "and".

In examining the provisions of Sections 6906 to 6956, General Code, inclusive, it will be observed that said sections comprise Chapter 6 of the General Code the title of which is "Road Construction and Improvement by County Commissioners." Said sections deal with the general powers of the county commissioners relating to public roads, the method of procedure by petitioners, etc. Also embraced within said sections are the provisions relating to the making of plans, surveys, appropriation of property, procedure with reference to compensation and damages, etc.

Section 6926, General Code, provides for a tax levy to provide a fund for the county's portion of compensation, damages, costs, expense of constructing, reconstructing, improving, maintaining and repairing roads under the provisions of the chapter.

As stated in your communication, Section 6967, General Code, is a part of the so-called Green Law which is found under Chapter 10 of the General Code, under the subject of "State Aid For County Highways," which embraces Sections 6956 to 6972, inclusive.

In analyzing the provisions of Section 6967 of the General Code, which you mention, it would appear to be clear that the purpose of the section was to make it the mandatory duty of the county to pay not less than \$500 per mile of the cost of such an improvement or undertaking as is provided for by this and related sections.

As stated in your communication, there is no provision for a tax levy under either Sections 6906 or 6956, General Code. Said Section 6967, General Code, in at least two other places mentions "Sections 6906 to 6956," of the General Code. Sections 6965 to 6972, inclusive, were all passed at the same time by the 85th General Assembly, 110 O. L. 267, in an Act entitled

"An Act to afford relief to townships by providing for the creation of a system of county highways in each county of the state and authorizing state aid in the construction thereof."

The phrase "Sections 6906 to 6956" is also used elsewhere in the Act. Therefore, the conclusion is irresistible that it was the intention of the Legislature, in the enactment of the so-called Green Law, to adopt by reference the procedure outlined in Sections 6906 to 6956 of the General Code, in so far as applicable.

It is a general rule of statutory construction that the intention of the Legislature is the pole star of all judicial interpretation. Furthermore, it is a rule of interpretation in this State that a statute will not be construed so as to produce absurd results. *Moore vs. Given*, 39 O. S. 661.

It has been held that it is the duty of a court, when possible to do so, to construe a legislative enactment so as to give an intelligent purpose to its provisions. *Chilcote vs. Hoffman*, 97 O. S. 98; *State ex rel. vs. LeBlond*, 108 O. S. 41.

It is obvious that if the statute under consideration is to be made effective, there must be some means provided for the levying of taxes to carry out this purpose. In the case of *State ex rel. vs. Board of Education*, 95 O. S. 367, the word "may" was held to be the equivalent of the word "shall". In 97 O. S. 319, in the case of *State*

*ex rel.* vs. *Riley*, it was held that unless the context requires it, the word "and" cannot be construed as "or".

In the case of *Stanton, Prosecuting Attorney vs. Frankel Brothers Realty Company*, 117 O. S. 345, the court held as disclosed by the first branch of the syllabus that:

"Section 5610 of the General Code, before the amendment of June 5, 1919, provided: 'An appeal from the decision of a county board of revision may be taken to the Tax Commission of Ohio \* \* \* by the county auditor or any complainant \* \* \* .' In amending that section the General Assembly changed the word 'or' to 'of' without intending so to do. In construing the statute as amended, in order to effect the obvious intent of the Legislature and to avoid inconsistency, the court will substitute the word 'or' for the word 'of' thereby giving to 'any complainant' the right to appeal from the board of revision to the tax commission."

While the question is not so free from doubt, in view of the foregoing decisions, it is clear that the legislative intent is the controlling factor in construing such a statute. It further would appear to be clear that the use of the word "and" in the manner pointed out in your communication was in all probability a clerical or typographical error. The entire context of the Green Law indicates that it was the purpose of the Legislature to adopt by reference the entire Sections 6906 to 6956, General Code, and in order to carry into effect the intention of the Legislature, it is necessary to substitute the word "to" for "and" in the language which you mention.

Based upon the foregoing citations and discussion, and in specific answer to your inquiry, it is my opinion that the phrase "Sections 6906 and 6956" contained in Section 6967 of the General Code, should be construed as "Sections 6906 to 6956." In other words, the context of the language of the section, in order to convey an intelligent meaning and to carry out the purposes thereof, requires the substitution of the word "to" for the word "and" in said phrase.

Respectfully,  
GILBERT BETTMAN,  
*Attorney General.*

309.

DISAPPROVAL, BONDS OF WASHINGTON TOWNSHIP, MONTGOMERY COUNTY, OHIO—\$4,500.00.

COLUMBUS, OHIO, April 15, 1929.

Re: Bonds of Washington Township, Montgomery County, Ohio, \$4,500.00.

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

GENTLEMEN:—An examination of the transcript pertaining to the above issue of bonds discloses that the notice of election was published for four consecutive weeks beginning on October 11, 1928, which was twenty-six days before the election.

This notice was published pursuant to the provisions of Section 2293-21 of the General Code, requiring that such notices of election shall be published in one or more newspapers of general circulation in the subdivision once a week for four consecutive weeks prior thereto.

Following the decision of the Supreme Court of Ohio in the case of *State vs.*