

You have further submitted evidence indicating the contract was properly awarded.

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

Respectfully,

C. C. CRABBE,

Attorney General.

229.

COUNTY SURVEYOR—SECTION 5549 G. C. REPEALED BY
IMPLICATION—COUNTY TAX MAP DRAFTSMAN.

SYLLABUS:

1. *Section 5549 of the General Code has been repealed by implication.*
2. *Section 5551 of the General Code, in so far as it provided for the appointment of the county surveyor as county tax map draftsman, has been repealed by implication by the provisions of section 7181 of the General Code, which section, by specific provision, makes the county surveyor the county tax map draftsman.*

COLUMBUS, OHIO, April 12, 1923.

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

GENTLEMEN:—Acknowledgment is made of the receipt of your request for the opinion of this department, as follows:

“Section 7181 G. C. provides that the county surveyor shall be the county tax map draftsman and shall serve in that capacity without additional compensation. Section 5549 G. C. authorizes the county commissioners to advertise for bids for the making of tax maps for the county, and section 5551 G. C. provides that the board of county commissioners may appoint the county surveyor, who shall employ such number of assistants as are necessary to provide for making, correcting and keeping up to date a complete set of tax maps of the county.

“Question 1. Having in mind the provisions of section 7181 G. C., may a board of county commissioners proceed under the provisions of section 5549 G. C., and let a contract to the lowest bidder for making tax maps of the county?

“Question 2. Is it necessary that the board of county commissioners appoint the county surveyor for this purpose as provided by section 5551 of the General Code?”

Section 5549, as the same has been carried into the General Code, reads as follows:

“If, in the opinion of the county commissioners, it is necessary to the proper appraisal of the real estate of such county, on or before their June session, one thousand nine hundred and thirteen, and every fourth year thereafter, they may advertise for four consecutive weeks in one or more newspapers of general circulation in the county, for sealed proposals to construct the necessary maps and plats to enable the assessors in the

county, or any district thereof, to correctly reappraise all real estate. The maps and plats shall be made under the supervision of the county auditor, and such advertisement shall particularly specify the extent and character of the work to be done. Each bid shall be accompanied by a good and sufficient bond of not less than one thousand dollars conditioned that said bidder will not fail or refuse to enter into contract in accordance with the advertised proposals, in case his bid is accepted. The commissioners shall open the bids on the day named in the advertisement, and, within three days thereafter, award the contract to the lowest and best bidder, if, in their opinion, it is to the interest of the county so to do, or they may reject any and all bids."

This section, in substantially the same form, has been carried into the tax assessor laws for many years. Formerly, it referred to appraisals for the purposes of taxation which were to be made every ten years; and later to appraisals for the purposes of taxation which were to be made every four years.

In an opinion by my predecessor, Opinions of the Attorney General for the year 1915, Vol. 2, p. 1785, it was said:

"The maps provided for in sections 5549 and 5550 were for the use of the assessors in making the quadrennial assessments. The scheme of assessment was repealed by the Warnes law, and sections 5549 and 5550 were repealed by implication when section 41 of the Warnes law (section 5620, G. C., 103 O. L. 797), was enacted and the duty of providing such maps was cast upon the district assessors."

Again, in an opinion found in the reports for the year 1917, Vol 1, at page 106, grave doubt of the power of the county commissioners to contract for tax maps under this section was expressed. If there has heretofore existed any doubt as to whether or not the provisions of the above section were effective, such doubt is removed by the provisions of section 5548 of the General Code, which was passed April 16, 1919. Generally, this section makes the county unit for assessing real estate for taxation purposes and the county auditor the assessor of all the real estate in his county for all purposes of taxation. The section also contemplates and provides for an annual valuation of the real estate for the purposes of taxation. Said section 5548 G. C., in part, further provides.

" * * * The county auditor shall cause to be made the necessary abstracts, from books in his office, containing such description of real estate in such subdivisions, together with such *plat books* and lists of transfers of title to land as the county auditor deems necessary in the performance of his duties in valuing such property for taxation. * * * "

It will be noted that the former section provided for quadrennial appraisement, while the latter section contemplates and provides for an annual appraisement the former section makes provision whereby the county commissioners, within their discretion, may provide, by contract, for the constructing of the necessary maps and plats in the making of a quadrennial appraisement, formerly required, while the later section provides that when necessary for the annual appraisement, provided for therein, the county auditor shall cause such plats to be made,

It is a rule of construction that statutes are to be construed together and each legislative act to be interpreted with reference to other acts relating to the same subject matter, with the view of giving effect to all, even though they contain no reference to one another and may have been passed at different times.

Black, Interpretation of Laws, Sec. 80.

It is also 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.

Goff et al. v. Gates et al., 87 O. S. 142.

It is apparent that, without doubt, section 5549 of the General Code has been repealed by implication.

It follows, in answer to your first question, that the county commissioners may not proceed under the provisions of section 5549 of the General Code and let a contract to the lowest bidder for making tax maps of the county.

Passing to your second question, which has to do with the provisions of section 5551 and section 7181 of the General Code, your attention is directed to said sections. The earlier section, 5551 G. C., reads as follows:

"The board of county commissioners may appoint the county surveyor, who shall employ such number of assistants as are necessary, not exceeding four, to provide for making, correcting and keeping up to date a complete set of tax maps of the county. Such maps shall show all original lots and parcels of land, and all divisions, subdivisions and allotments thereof, with the name of the owner of each original lot or parcel and of each division, subdivision or lot, all new divisions, subdivisions or allotments made in the county, all transfers of property showing the lot or parcel of land transferred, the name of the grantee, and the date of the transfer, so that such maps shall furnish the auditor, for entering on the tax duplicate, a correct and proper description of each lot or parcel of land offered for transfer. Such maps shall be for the use of the board of equalization and the auditor, and be kept in the office of the county auditor."

The pertinent part of the later section, 7181 G. C., reads as follows:

" * * * The County surveyor shall be the county tax map draftsman, * * * ."

Your attention is also directed to an opinion of my predecessor, rendered on the 7th day of June, 1917 (Opinions of the Attorney General, Vol. 1, p. 949), which, it is believed, substantially answers this inquiry.

In the above opinion it was in effect held that the above quoted provisions of section 7181 of the General Code had particular reference to some other section or sections, and as the legislature did not repeal section 5551 of the General Code, the above quoted provision should undoubtedly be read in connection with the provisions of said section 5551, but with particular reference to only one provision thereof, viz.:

"The board of county commissioners may appoint the county surveyor, * * * ."

The reasoning and holding of said opinion is adhered to.

The earlier section, in substance, made provision, where the commissioners were authorized, within their discretion, to appoint the county surveyor as a county tax map draftsman; the later section provides that the county surveyor shall be the county tax map draftsman. To this extent, under the rules of construction hereinbefore referred to, the earlier section is, by the later enactment, repealed by implication. It follows that, in answer to your second question, it is not necessary that the board of county commissioners appoint the county surveyor as county tax map draftsman, for the reason that by the above provision of section 7181 of the General Code the county surveyor is specifically made the county tax map draftsman.

Respectfully,
C. C. CRABBE,
Attorney General.

230.

APPROVAL, BONDS OF CITY OF BARBERTON, SUMMIT COUNTY,
\$4,200.00, TO PAY PROPERTY OWNERS' PORTION OF STREET IMPROVEMENT.

COLUMBUS, OHIO, April 12, 1923.

Department of Industrial Relations, Industrial Commission of Ohio, Columbus, Ohio.

231.

VILLAGE—BOARD OF TRUSTEES OF PUBLIC AFFAIRS NOT AUTHORIZED TO ENTER INTO CONTRACT FOR MORE THAN \$500.00 WITHOUT ACTION OF COUNCIL—MANAGEMENT OF WATER WORKS—BONDS ISSUED UNDER SECTION 1259 G. C. REQUIRE AFFIRMATIVE VOTE OF MAJORITY OF COUNCIL.

SYLLABUS:

1. *The Board of Trustees of Public Affairs of a village are not authorized to enter into a contract involving an expenditure of more than \$500.00 without the action of the council authorizing such expenditures. It follows that the preparation of plans, employment of engineers, adoption of plans and acquirement of lands for water works purposes would necessarily be under the control of council.*

2. *The management and control of such water works after established is in the hands of the Board of Trustees of Public Affairs, subject to the limitations of section 4328 with reference to contracts involving more than \$500.00.*

3. *Bonds issued under the provisions of section 1259 of the General Code are not subject to requirements of section 3939 of the General Code and require only an affirmative vote of a majority of the members of council.*