

The next section provides for the terms of judges and clerks, which is one year from the date of their appointment, which contemplates that it is an office and for a specified term.

Section 4855 G. C. requires the judges and clerks to take an oath of office swearing "that if, in the discharge of my *official duties* I gain knowledge as to how an elector voted", etc.

Section 4858 G. C. provides that judges and clerks of election "may be summarily removed from office at any time by the board of deputy state supervisors for neglect of duty, malfeasance or misconduct therein."

Upon a careful consideration of the above mentioned sections, it is clearly my opinion that the position as a member of the board of elections, either judge or clerk is that of an office of honor at least and for a definite specified term.

These election officials are to conduct and hold all elections in their precinct that may be ordered during their specified term of one year. It is their duty to pass upon the right of suffrage of the citizens of that particular precinct during the particular year of their appointment and term of office.

You are therefore advised that it is my opinion that to thus sit in judgment and to decide the right of suffrage of the citizens is an office of honor, and one who has been found guilty of violation of the extortion statutes and as a part of the penalty forbidden to hold any office of honor, profit or trust for seven years thereafter is ineligible to hold office as a member of the board of elections in his precinct during this period of seven years.

Respectfully,

C. C. CRABBE,

Attorney-General.

784.

ROADS—TOWNSHIP TRUSTEES AUTHORIZED TO CONSTRUCT OR REPAIR CULVERTS—SUBJECT TO CONDITIONS AND LIMITATIONS OF SECTIONS 3370 AND 3371-1 G. C.

SYLLABUS:

1. *Township trustees are authorized to maintain or repair road culverts.*
2. *In connection with township roads, such authority is subject to the conditions and limitations as are contained in Section 3371-1 of the General Code, as follows: (1) Such maintenance and repair shall be subject to the general supervision and direction of the county surveyor; (2) All expenditures made by them for such maintenance and repair purposes shall, where the amount involved exceeds fifty dollars, receive the approval of the county surveyor before payment is made; and also as are contained in Section 3373 of the General Code, as follows: When they proceed by contract they shall, in case the amount involved exceeds two hundred dollars, (3) Let the contract to the lowest responsible bidder after advertisement as is in said section provided, (4) The contract shall be performed under the supervision of a member of the board of township trustees or the township highway superintendent; if they proceed by force account, (5) The work shall be done under the direction of the board of township trustees or the township highway superintendent. and, (6) All purchases of materials, machinery and tools, shall, where the amount involved exceeds five hundred dollars, be made from the lowest responsible bidder after advertisement made in the manner provided in said section.*
3. *In connection with county roads or inter-county highways or main market roads, in addition to the conditions and limitations set out in paragraph two of this syllabus, they must also obtain the approval of the county commissioners or the director of highways and public works, as the case may be, as provided in Section 3370 of the General Code.*

COLUMBUS, OHIO, October 3, 1923.

HON. L. CRARY DAVIS, *Prosecuting Attorney, Pomeroy, Ohio.*

DEAR SIR:—Acknowledgment is made of receipt of your recent communication in which you inquire whether or not township trustees are authorized to do culvert work, and, if so, under what conditions and limitations.

An answer to your question will be found in a chapter of the General Code, entitled "Road Superintendent," and which is composed of Sections 3370 and 3376, both inclusive, of the General Code.

Section 3370 of the General Code, in part, reads:

"The township trustees shall have control of the township roads of their township and shall keep the same in good repair. The township trustees may, with the approval of the county commissioners or state highway commissioner, as the case may be, maintain or repair a county or inter-county highway or main market road within the limits of their township. In the maintenance and repair of roads the township trustees may proceed in any one of the following methods as they may deem for the best interest of the public, to wit: * * *"

Then follows three methods of procedure: (1) They may designate one of their number to have charge of the maintenance and repair of roads within the township; (2) They may divide the township into three road districts and each trustee have charge of the maintenance and repair of the roads of one of such district; or, (3) They may appoint some person, not a trustee, as township highway superintendent, who shall have charge of the maintenance and repair of roads within their township.

It will be noted that the above quoted section has reference to and deals with the maintenance and repair of roads. The word "road" in its proper sense is a generic term for all kinds of ways. In this sense, a culvert is as much a part of a road as any other part thereof. No doubt the legislature used the word with the intention that it be given the meaning suggested. Such interpretation is supported by the application of the elementary rule of construction, that statutes in *pari materia* are construed together and noting the provisions of such statutes.

Attention is directed to the following provision of section 3372 of the General Code:

"When the trustees of any township determine to proceed in either the first or second method hereinbefore provided, the trustee or trustees designated to have charge of the maintenance and repair of roads *and culverts* within the township, shall receive * * *."

Also, in Section 3373 of the General Code:

"* * *. Township trustees are hereby authorized to purchase or lease such machinery and tools as may be deemed necessary for use in maintaining and repairing roads *and culverts* within the township * * *."

By the provisions of said Section 3370 of the General Code, it is made the positive and specific duty of the township trustees to maintain the township roads in their township and keep them in repair.

By the provisions of said Section 3370 of the General Code, the township trustees may maintain or repair a county road or inter-county highway or main market road within the limits of their township. As to township roads, as hereinbefore stated,

it is their positive duty to do so, and the only limitations upon their authority in this connection are those found in Section 3371 and 3373 of the General Code.

Section 3371 of the General Code reads:

"In the maintenance and repair of roads the township trustees and any township highway superintendent, appointed by them, shall be subject to the general supervision and direction of the county surveyor. They shall follow the direction of the county surveyor as to methods to be followed in making repairs and all expenditures made by them for maintenance and repair purposes shall, where the amount involved exceeds fifty dollars, receive the approval of the county surveyor before payment is made."

Section 3373 of the General Code reads:

"In the maintenance and repair of roads the township trustees may proceed either by contract or force account. When they proceed by contract the contract shall, in case the amount involved exceeds two hundred dollars, be let by the township trustees to the lowest responsible bidder after advertisement for bids once not later than two weeks prior to the date fixed for letting of such contract, in a newspaper published in the county and of general circulation within such township, if there be any such paper published in the county, but if there be no such paper published in the county, then in a newspaper having general circulation in said township. If the amount involved is two hundred dollars or less, the contract may be let without competitive bidding. Such contract shall be performed under the supervision of a member of the board of township trustees or the township highway superintendent. Township trustees are hereby authorized to purchase or lease such machinery and tools as may be deemed necessary for use in maintaining and repairing roads and culverts within the township. The township trustees shall provide suitable places for housing and storing machinery and tools owned by the township. They shall have the power to purchase such material and to employ such labor and teams as may be necessary for carrying into effect the provisions of this section, or they may authorize the purchase or employment of the same by one of their number or by the township highway superintendent at a price to be fixed by the township trustees. All payments on account of machinery, tools, material, labor and teams shall be made from the township road fund as provided by law. All purchases of materials, machinery and tools, shall, where the amount involved exceeds five hundred dollars, be made from the lowest responsible bidder after advertisement made in the manner hereinbefore provided. All force account work shall be done under the direction of a member of the board of township trustees or of the township highway superintendent."

That is, under section 3371 of the General Code, (1) Such maintenance and repair shall be subject to the general supervision and direction of the county surveyor, and (2) all expenditures made by them for such maintenance and repair purposes shall, where the amount involved exceeds fifty dollars, receive the approval of the county surveyor before payment is made and, under section 3373 of the General Code, when they proceed by contract they shall, in case the amount involved exceeds two hundred dollars, (3) let the contract to the lowest responsible bidder after advertisement as is in said section provided, (4) the contract shall be performed under the supervision of a member of the board of township trustees or the township highway superintendent; if they proceed by force account, (5) the work shall be done under the direction of a member of the board of township trustees or the township high-

way superintendent, and (6) all purchases of materials, machinery and tools, shall, where the amount involved exceeds five hundred dollars, be made from the lowest responsible bidder, after advertisement made in the manner provided in said section.

In the maintenance and repair of county roads, or inter-county highways or main market roads within the limits of their township, they are subject to the conditions and limitations set out in said sections 3370, 3371-1 and 3373 of the General Code, which have been hereinbefore designated, and in addition thereto, in the case of county roads they must (1) have the approval of the county commissioners, and in the case of inter-county highways or main market roads they must (1) have the approval of the Director of Highways and Public Works.

It follows from the foregoing discussion, and I am of the opinion, in specifically answering your question, that township trustees are authorized to construct or repair culverts, subject to the conditions and limitations hereinbefore set out.

Respectfully,
C. C. CRABBE,
Attorney-General.

785.

APPROVAL, FINAL RESOLUTIONS, ROAD IMPROVEMENTS IN THE
FOLLOWING COUNTIES, GREENE, FRANKLIN AND SCIOTO.

COLUMBUS, OHIO, October 3, 1923.

Department of Public Highways and Public Works, Columbus, Ohio.

786.

CIVIL SERVICE COMMISSION—MAY NOT PAY PER DIEM ATTEN-
DANCE FEES TO STATE, COUNTY OR MUNICIPAL EMPLOYEES
SUBPOENAED UNDER AUTHORITY OF SECTION 486-7 G. C.

SYLLABUS:

The State Civil Service Commission may not pay a per diem attendance fee and mileage to state, county and municipal employes or elective officials who are summoned under authority of section 486-7 to testify before such Commission.

COLUMBUS, OHIO, October 4, 1923.

The State Civil Service Commission, Columbus, Ohio.

GENTLEMEN:—I am in receipt of your recent communication as follows:

Can or cannot the State Civil Service Commission pay per diem attendance fees to state, county or municipal employees or elective officials who are subpoenaed under authority of section 486-7-5 to testify before it?