

visions of Section 4785-8, General Code, as enacted by the 88th General Assembly, effective January 1, 1930, members of boards of deputy state supervisors and inspectors of elections and deputy state supervisors of elections whose terms expire on May 1 of odd numbered years should continue to act and be recognized as such until May 1 of the next even numbered years, when their successors should be appointed by the Secretary of State as therein provided.

Respectfully,
 GILBERT BETTMAN,
Attorney General.

1343.

TOWNSHIP TRUSTEES—DUTY TO REMOVE SNOW OBSTRUCTING
 STATE, COUNTY AND TOWNSHIP ROADS.

SYLLABUS:

Section 7464, General Code, as amended by the 87th General Assembly (112 v. 496) does not repeal by implication Section 3374-1, General Code, and it is therefore the duty of the township trustees to keep state, county and township roads free from obstruction by snow.

COLUMBUS, OHIO, December 30, 1929.

HON. C. G. L. YEARICK, *Prosecuting Attorney, Newark, Ohio.*

DEAR SIR:—Acknowledgment is made of your recent communication reading as follows:

“The trustees of Hopewell Township, Licking County, have requested information as to their duties with regard to the removal of snow from highways within the limits of the township other than township roads,—particularly county roads.

They have invited attention to Sec. 3374-1 of the General Code, which reads:

‘It shall be the duty of the township trustees to cause all the highways within the township, including the state, county and township roads, to be kept free from obstruction by snow. The cost and expense thereof shall be paid from the road funds of the township.’

At the time this section became a law, (107 p. 94) Sec. 7464 G. C. provided, under paragraph (b) that certain county roads should be maintained by the county commissioners. This section was amended, effective January 2, 1928, (112 v. 496).

Since Sec. 7464 charges the county commissioners with the maintenance of roads on the county highway system, the township trustees are inquiring whether Section 3374-1, in so far as it relates to county roads, is not by implication repealed.”

As suggested in your communication the question presented is whether or not the provisions of Section 7464, General Code, requiring the county commissioners to maintain a county highway system includes within the terms thereof the removing of “obstruction by snow”. Of course, if the provisions of Section 7464 are inconsistent with those of Section 3374-1, the latter will prevail because it is later in the order of enactment. However, repeals by implication are not favored under the

rules of construction and every effort is to be made to harmonize said sections if the same may be done.

It is my opinion that Section 7464, in its language, does not include such duties as removing obstructions caused by snow. In other words, removal of an obstruction from a road is not necessarily maintaining a road.

Section 3374-1, supra, imposes upon township trustees the duty of removing snow obstructions in all traveled roads by reason of the fact that such trustees are more closely located to the portions of such roads as are apt to be obstructed by snow. The removal of an obstruction by snow does not necessarily mean the removal of snow and ice from the paved portions of the highway. It is believed that this provision has reference to the removal of drifts so as to make the road passable.

The theory I have above adopted was supported in my opinion No. 294, issued to the Bureau of Inspection and Supervision of Public Offices, under date of April 12, 1929. In that opinion it was held, among other things, that the proceeds of the motor vehicle license tax and the gasoline tax could not be used for the purpose of cleaning the streets or removing ice and snow therefrom, notwithstanding the language of the acts producing such funds authorizes the use thereof for the purpose of maintenance and repair.

It is believed that the principle announced in the opinion above referred to will by analogy apply to the question under consideration herein.

In specific answer to your inquiry, it is my opinion that Section 7464, as amended by the 87th General Assembly (112 v. 496) does not repeal by implication Section 3374-1, General Code, and it is therefore the duty of the township trustees to keep state, county and township roads free from obstruction by snow.

Respectfully,

GILBERT BETTMAN,
Attorney General.

1344.

APPROVAL, BONDS OF CITY OF EAST PALESTINE, COLUMBIANA COUNTY—\$53,720.61.

COLUMBUS, OHIO, December 30, 1929.

Industrial Commission of Ohio, Columbus, Ohio.

1345.

APPROVAL, BONDS OF WAVERLY RURAL SCHOOL DISTRICT, PIKE COUNTY—\$138,000.00.

COLUMBUS, OHIO, December 30, 1929.

Industrial Commission of Ohio, Columbus, Ohio.