

954.

COUNTY COMMISSIONERS — UNAUTHORIZED TO PROVIDE WEARING APPAREL FOR SURVEYOR AND EMPLOYEES PAYING THEREFOR FROM COUNTY TREASURY.

SYLLABUS:

County commissioners are not authorized under the provisions of either section 2786 or section 7200, General Code, to furnish boots or other wearing apparel for the surveyor and his employes and pay therefor from the county treasury.

COLUMBUS, OHIO, June 13, 1933.

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

GENTLEMEN:—I acknowledge receipt of your communication which reads as follows:

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

Section 2786 of the General Code, requires the county commissioners to furnish certain equipment for the county surveyor's office.

QUESTION: Would the terms of this section authorize the county commissioners to furnish boots and other wearing apparel for the surveyor and employes of his office?”

Section 2786, General Code, reads as follows:

“The county surveyor shall keep his office at the county seat in such room or rooms as are provided by the county commissioners, which shall be furnished, with all necessary cases and other suitable articles, at the expense of the county. Such office shall also be furnished with all tools, instruments, books, blanks and stationery necessary for the proper discharge of the official duties of the county surveyor. The cost and expense of such equipment shall be allowed and paid from the general fund of the county upon the approval of the county commissioners. The county surveyor and each assistant and deputy shall be allowed his reasonable and necessary expenses incurred in the performance of his official duties.”

This section provides what articles may be purchased by the county commissioners for the surveyor's office. It includes tools, instruments, books, blanks and stationery necessary for the proper discharge of the official duties of the county surveyor. Clearly, boots or other wearing apparel would not be included within any of these terms. The statute also provides:

“The county surveyor shall keep his office at the county seat in such room or rooms as provided by the county commissioners, which shall be furnished, with all necessary cases and other suitable articles, at the expense of the county.”

The phrase “other suitable articles” refers only to such articles as would be used in furnishing the room or rooms in which the office is located. In

other words, the rooms are to be furnished with all necessary cases and other suitable articles. I am of the view therefore that the terms of section 2786, General Code, do not authorize the county commissioners to purchase boots or other wearing apparel for the surveyor and his employes.

Section 7200, General Code, reads in part as follows:

"The county commissioners may purchase such machinery, tools or other equipment for the construction, improvement, maintenance or repair of the highway, bridges and culverts under their jurisdiction as they may deem necessary. The county commissioners may also at their discretion purchase, hire or lease automobiles, motorcycles or other conveyances and maintain the same for the use of the county surveyor and his assistants when on official business. All such machinery, tools, equipment and conveyances belonging to the county shall be under the care and custody of the county surveyor. All such machinery, tools, equipment and conveyances owned by the county shall be plainly and conspicuously marked as the property of the county. The county surveyor shall annually on the fifteenth day of November make, or cause to be made, a written inventory of all such machinery, tools, equipment and conveyances indicating each article and stating the value thereof and the estimated cost of all necessary repairs thereto and deliver the same to the county commissioners, who shall cause the same to be placed on file. At the same time he shall file with the county commissioners his written recommendations as to what machinery, tools, equipment and conveyances should be purchased for the use of the county during the ensuing year and the probable cost thereof."

This section was construed in Opinions of the Attorney General for 1917, Vol. III, page 2332, wherein the following question was asked:

"(2) May the commissioners also provide equipment for doing such work, and can rubber boots, whether ordinary or hip, be considered as equipment to be paid for from the public treasuries of any taxing district?"

This opinion says on page 2335:

"In answering this question it will be well for us to note the provisions of section 7200 above quoted. The language therein used is as follows:

'The county commissioners may purchase such machinery, tools or other equipment for the construction, improvement, maintenance or repair of the highway, bridges and culverts. * * *'

The question arises as to whether rubber boots could be brought within the term 'other equipment.' It is my opinion that they cannot be so brought within this term. While I will not go into this to any extent for the purposes of this opinion, yet the rule is well estab-

lished in law that where a general term follows specific and definite terms, the meaning of the general one must be fixed with a view to the meaning of the specific and definite terms.

In the provision just quoted the specific terms are 'machinery' and 'tools,' and the general term which follows these specific ones is 'other equipment.' Hence, in view of the above rule of law, 'other equipment' would be held to include only those things which would be similar in nature to 'machinery' and 'tools;' that is, such things as would be used by a workman in the building of roads, bridges and the like, which could hardly be said to include articles of wearing apparel, irrespective of whether they be hip or ordinary boots. Therefore, it is my opinion that the county commissioners would have no authority to purchase boots, as suggested, and pay for the same from the proper fund of the county."

I agree with the holding of that opinion.

Consequently, I am of the view that the county commissioners are not authorized under the provisions of either section 2786 or 7200, General Code, to furnish boots or other wearing apparel for the surveyor and his employes and pay therefor from the county treasury.

Respectfully,

JOHN W. BRICKER,
Attorney General.

955.

PUBLIC SCHOOL FUND—SUBSTITUTE HOUSE BILL NO. 688, 90TH GENERAL ASSEMBLY, IF ENACTED, PROVIDING THEREFOR, MAY NOT BE USED FOR CERTAIN PURPOSES—SMITH-HUGHES ACT AND TRACEY-COPPS ACT DISCUSSED—EXPENSES OF STATE BOARD OF VOCATIONAL EDUCATION—REHABILITATION WORK DISCUSSED.

SYLLABUS:

1. *In the event Substitute House Bill 688 of the 90th General Assembly is enacted into law in the form in which it was introduced in the legislature, and a "public school fund" as provided by Section 6 thereof, is thereby created, no part of that fund may be used for the payment of salaries or wages of employes or appointees of the State Board of Vocational Education engaged in directing and supervising the administration of the Smith-Hughes Act or the Tracey-Copps Act in cooperation with the Federal Government; nor may any part of such fund be used to pay the incidental expense of the State Board of Vocational Education or its appointees; nor may any part of the said fund be expended to pay the cost of administration of the division of schools for deaf, blind and crippled children in the Department of Education.*

2. *No part of the state's cost of administration of the Smith-Hughes Act or the Tracey-Copps Act may be paid from the "public school fund" referred to in paragraph 1, above, except such as may be included within the amounts authorized to be paid to the several school districts by Sections 7 and 8 of proposed*