

system in a manner so as not to deprive any local board of powers or property.

In any event, since the federated system may not employ personnel, it follows, *a fortiori*, that it may not provide social security or other benefits therefor. Employees of the participating libraries look to such participants for employee benefits.

FRANK J. KELLEY,
Attorney General.

66/208.1

PUBLIC OFFICES AND OFFICERS: Increase in salary of county officers and employees.

There is no prohibition in either the Michigan Constitution of 1963 or in law against increasing the salary of county officers during their terms. The salaries and compensation of county employees, as distinguished from county officers, may also be increased during their period of service.

No. 4493

December 8, 1966.

Mr. Jerome C. Nadolney
Prosecuting Attorney
Gogebic County
Bessemer, Michigan

You have requested my opinion as to whether the salary of county officers may be increased during their terms of office. You also inquire as to the authority to increase the compensation of county employees.

Article VIII, Section 9 of the Michigan Constitution of 1908 provided in pertinent part:

“The board of supervisors shall have exclusive power to fix the salaries and compensation of all county officials not otherwise provided for by law.”

The Michigan Supreme Court in *Vetter v. Fowler*, 167 Mich 499 (1911) has ruled that the intention of the framers of the 1908 Constitution as expressed in the final clause “not otherwise provided by law” in Article VIII, Sec. 9 was to place a limitation upon the power granted to boards of supervisors.

Article XVI, Section 3 of the Michigan Constitution of 1908 provided in part:

“Salaries of public officers, except circuit judges, shall not be increased, nor shall the salary of any public officer be decreased, after election or appointment.”

The legislature has enacted Act 154, PA 1879, being CL 1948 § 45.421; MSA 1961 Rev Vol § 5.1101, which provides:

“*The People of the State of Michigan enact*, That the annual salaries of all salaried county officers, which are now or may be hereafter by law fixed by the board of supervisors, shall be fixed by said board

on or before the thirty-first [31st] day of October prior to the commencement of the term of such officers, and the same shall not be increased or diminished during the term for which such officers shall have been elected or appointed."

The Attorney General has ruled that Act 154, PA 1879, supra, conforms to the mandate of Article VIII, Section 9 and Article XVI, Section 3 of the Michigan Constitution of 1908. OAG 1926-28, page 110.

The people have retained the provision found in Article VIII, Section 9 of the 1908 Constitution in Article VIII, Section 9 of the Michigan Constitution of 1963, which provides as follows:

"Boards of supervisors shall have exclusive power to fix the compensation of county officers not otherwise provided by law."

As to county officers, the Michigan Constitution of 1963 contains no comparable provision to Article XVI, Section 3 of the 1908 Constitution, or any provision prohibiting increases in the salary of county officers during their terms of office.

The legislature amended Section 30 of Act 156, PA 1851, as amended, by means of Act 334, PA 1966, effective September 14, 1966, being MSA Cur Mat § 5.353, by adding subsection (5) thereto. This subsection reads as follows:

"Notwithstanding the provisions of any other act, the annual salaries of all salaried county officers which are now or may be hereafter by law fixed by the board of supervisors shall be fixed by the board on or before October 31 each year and shall not be diminished during the term for which such county officers shall have been elected or appointed, but may be increased by the board during their term of office as provided above."

A plain reading of Section 30 of Act 156, PA 1851, as last amended by Act 334, PA 1966, supra, and Act 154, PA 1879, supra, shows that the two are repugnant. The 1879 act bars county boards of supervisors from increasing the salary of county officers during their terms of office. Section 30 of Act 156, PA 1851, as last amended by Act 334, PA 1966, supra, expressly authorizes county boards of supervisors in their discretion to increase the salary of county officers during their terms of office.

While repeals of statutes by implication are not favored, when the legislative intent is clear the repeal must be given effect. *Southward v. Wabash Railroad Company*, 331 Mich 138 (1951).

There is no prohibition in either the Michigan Constitution of 1963 or in law against increasing the salary of county officers during their terms of office. Therefore it is the opinion of the Attorney General that the salary of county officers may be increased during their terms of office.

In response to your second question the Attorney General has held in OAG 1955-56, Vol. I, p. 294, that the compensation of county employees is subject to increase or decrease. This ruling is still applicable and answers fully your second question.

FRANK J. KELLEY,
Attorney General.