

person cannot at all times perform the duties of one position without in some degree neglecting the duties of the other.

Therefore, without further consideration, it is the opinion of this department, for the reasons above pointed out, that the office of clerk of courts and the position of official court stenographer are incompatible under the law.

Coming to your second inquiry, it must be kept in view that there are no statutory inhibitions against such a practice as heretofore pointed out, and undoubtedly such occurrences are due to a mistake of law by those attempting to perform such service, as well as by those accepting the same. No doubt, services of material value were rendered to the court by the clerk of courts in such capacity in the case you have in mind. In this connection, you are referred to an opinion of the Attorney-General, 1915, page 758, where the then Attorney-General in advising you with reference to a very similar situation, said:

"I would not advise the making of any finding against a person who has been occupying the two offices simultaneously; but would suggest that your bureau notify such persons who are occupying the two offices simultaneously that either the one or the other should be given up."

Respectfully,  
JOHN G. PRICE,  
*Attorney-General.*

2103.

APPROVAL OF CORRECTED DEED FOR REAL ESTATE SITUATED IN  
ATHENS TOWNSHIP, HARRISON COUNTY, OHIO.

COLUMBUS, OHIO, May 25, 1921.

HON. HARRY L. DAVIS, *Governor of Ohio, Columbus, Ohio.*

MY DEAR GOVERNOR:—Mr. T. E. Johnson, through his attorney, Barclay W. Moore, Cadiz, Ohio, has made application, which said application is enclosed herewith, for a corrected deed to the following described premises:

Situate in the state of Ohio, county of Harrison, township of Athens, and being the northwest quarter of the southwest quarter of section sixteen (16), township nine (9), range five (5), Athens township, Harrison county, Ohio.

The application sets forth, in substance, that on December 8, 1868, the governor of Ohio conveyed to Joseph Brown a tract of land consisting of forty and one-half (40½) acres, which were described as follows:

Situate in Harrison county, Athens township, state of Ohio: Part of the southwest quarter of section 16, township 9, range 5, beginning at the southwest corner of the southwest quarter and running thence with the dividing line 81 perches; thence at right angles 80 perches; thence southwest 81 perches to a stake on the west boundary line of said section; thence with said boundary line 80 perches to the beginning, containing 40½ acres.

It is further claimed that an error was made in this conveyance in the description of the premises; in other words, that a part of the *southwest* quarter of the southwest quarter of section 16 was conveyed, when as a matter of fact it was the *northwest* quarter of the southwest quarter of section 16 which was purchased and intended to be conveyed. Said applicant also submits an affidavit reciting that on April 1, 1881, he purchased the premises in question which were conveyed to Joseph Brown, and has been in the continuous, open and notorious possession, adverse to the claims of all other persons, since the date of his said purchase, and that he is the owner thereof. He further accompanies his application with a quitclaim deed, which is enclosed herewith, releasing to the state of Ohio all of his right, title and interest in the premises which it is alleged were erroneously conveyed. It is my opinion that said quitclaim deed is properly executed.

From an examination that has been made of the records in the office of the auditor of state it appears that all of the southwest quarter of section 16 except the northwest one-fourth had been conveyed prior to the time the premises were conveyed to the said Joseph Brown. Therefore it would seem that the only land which the state owned in this quarter of the section which it had authority to convey was the northwest quarter of said southwest quarter section.

In view of these investigations it is the opinion of this department that the claims of the applicant are true and that he is entitled to a corrected deed under the provisions of section 8528 G. C., which provides :

“When, by satisfactory evidence, it appears to the governor and attorney-general, that an error has occurred in a deed executed and delivered in the name of the state, under the laws thereof, or in the certificate of any public officer, upon which, if correct, a conveyance would be properly required from the state, the governor shall correct such error by the execution of a correct and proper title deed, according to the intent and object of the original purchase or conveyance, to the party entitled to it, his heirs, or legal assigns, as the case may require, and take from such party a release in due form to the state, of the property erroneously conveyed.”

Enclosed herewith you will find form of deed which I regard as proper under the circumstances. If it meets with your approval, kindly sign and affix the seal of the state of Ohio thereto and forward to the secretary of state in order that he may countersign the same and transmit it to the auditor of state to be recorded and delivered to the party entitled to the same.

The quitclaim deed which is enclosed herewith should be retained by the auditor of state.

Respectfully,  
JOHN G. PRICE,  
*Attorney-General.*

2104.

APPROVAL, BONDS OF ERIE COUNTY, OHIO, IN AMOUNT OF \$40,000  
FOR ROAD IMPROVEMENTS.

*Industrial Commission of Ohio, Columbus, Ohio.*

COLUMBUS, OHIO, May 25, 1921.