

employes thereof shall be deemed to be employes of said department and shall have and exercise all authority vested by law in the employes of such commission. But the industrial commission of Ohio shall have direct supervision and control over, and power of appointment and removal of such employes whose position shall be designated by the governor as fully subject to the authority of such commission.

The commission may appoint advisers, who shall without compensation assist the commission in the execution of the powers and duties retained by it under this section."

By reason of this section, the *department of industrial relations* must be deemed to have the authority to approve fixtures, devices or constructions not described in the state building code (section 12600-277 G. C.), unless such power is included in the *exceptions* recognized in section 154-45 G. C.

I am unable to find that the power just mentioned is so included. On the contrary, the fact that subsection 2 of section 871-22 G. C. is *omitted* from the specific enumeration of exceptions found in section 154-45 G. C., leads me to believe that the legislature intended the power hereinabove discussed to reside in the *department of industrial relations, rather than in the industrial commission*. It will be observed that subsection 2 deals with the power to administer and enforce the general laws of this state relating to mines, manufacturing, mechanical, electrical, art and laundering establishments * * * *school houses* * * * *opera houses, halls, theaters.* * * *

You are therefore advised that where the use of another fixture, device or construction is desired which is at variance with what is described in the state building code, the department of industrial relations has authority to receive and examine plans, specifications and details relative thereto; and if after such examination said department finds that the fixture, device or construction proposed answers to all intents and purposes the fixture, device or construction described in the state building code, said department then has the authority to approve the proposed fixture, device or construction.

Respectfully,

JOHN G. PRICE,
Attorney-General.

2691.

TOWNSHIP CLERKS—NOT EMPOWERED TO TAKE ACKNOWLEDGMENT OF CEMETERY DEEDS—SEE SECTIONS 3303 AND 8510 G. C.

1. *Under the provisions of section 3303 G. C. township clerks are not empowered to take the acknowledgment of cemetery deeds.*
2. *Under the provisions of section 8510 G. C. the officials are specifically designated who are authorized to take the acknowledgments of deeds, mortgages or lease of any estate or interest in real property.*

COLUMBUS, OHIO, December 14, 1921.

HON. ISAAC C. BAKER, *Prosecuting Attorney, Hamilton, Ohio.*

DEAR SIR:—Your letter of recent date has been received reading as follows :

"Kindly inform me whether or not there is an opinion in your de-

partment relative to whether or not a township clerk is empowered to take acknowledgments to cemetery deeds.

Section 3303 gives him the power to administer oaths and take and certify affidavits pertaining to the business of his township or connected with the official business thereof, including the official oaths of township and other officials, and oaths required in the execution, verification and renewal of chattel mortgages.

Section 3448 authorizes the township trustees to execute and deliver deeds for lots in cemeteries by the trustees in their respective townships.

Section 8510 on the other hand which has relation to conveyances of deeds and mortgages, etc., does not give the clerk of the township authority to take such acknowledgments.

I would be pleased therefore to have a ruling on this subject. On the face of it, though, it looks as though the township clerk would not have such authority."

A search of the Opinions of the Attorney-General fails to disclose that this department has rendered such an opinion as your communication indicates.

Briefly stated, it is thought the question presented by your inquiry involves the construction of sections 3303 and 8510 G. C.

Section 3303 G. C. provides as follows:

"The clerk may administer oaths, and take and certify affidavits, which pertain to the business of his township, or of the board of education of his township, or connected with the official business of either board, including the official oaths of township and school officers, and oaths required in the execution, verification, and renewal of chattel mortgages."

This section of the General Code provides that the township clerk "*may administer oaths, and take and certify affidavits * * **" etc. It does not authorize such clerk to acknowledge a deed or other written instrument conveying the title or interest in real property, in the capacity judicially and officially required by statute. While the phrase "*may administer oaths*" occurring in the section, does in a certain sense contain some of the elements of attestation required by the act of acknowledgment, it by no means follows that the two terms may legally be considered as synonymous. The administering of an oath is a general matter of attestation, while the acknowledgment of a deed is the particular act of one who has executed the same, in going before some competent officer or court and declaring it to be his act or deed, the function of which is two-fold: To authorize the deed to be given in evidence, without further proof of its execution, and to entitle the same to be recorded.

Section 8510 G. C. provides as follows:

"A deed, mortgage, or lease of any estate or interest in real property, must be signed by the grantor, mortgagor, or lessor, and such signing be acknowledged by the grantor, mortgagor, or lessor in the presence of two witnesses, who shall attest the signing and subscribe their names to the attestation. Such signing also must be acknowledged by the grantor, mortgagor, or lessor before a judge of a court of record in this state, or a clerk thereof, a county auditor, county surveyor, notary public, mayor, or justice of the peace, who shall

certify the acknowledgment on the same sheet on which the instrument is written or printed, and subscribe his name thereto."

It may be noted that the provisions of the section quoted specifically enumerate the officials before whom such acknowledgments *must be taken*. The terms of the section are mandatory, and it is obviously apparent that a township clerk is not mentioned as such an official. Since the conveyance by deed of a cemetery lot is a conveyance of an estate or interest in real property within the meaning of the provisions of this section, it is thought to be logically concluded that a township clerk is not empowered or authorized by law to take acknowledgments to cemetery deeds.

Respectfully,
JOHN G. PRICE,
Attorney-General.

2692.

STATE BOARD OF PHARMACY—POISON LAWS—DUTY TO ENFORCE SAME—WHO AUTHORIZED TO SELL POISONS—PROPERTIES OF WOOD ALCOHOL AND DENATURED ALCOHOL POISONOUS.

1. *Under the provisions of section 12671-1 G. C. (109 O. L. 100), it is the duty of the state board of pharmacy to enforce the so-called poison laws included in sections 12663 et seq. G. C., and by virtue of the provisions of section 1313 G. C. it is the duty of said pharmacy board to enforce the laws relating to the practice of pharmacy embraced within the provisions of sections 12705 to 12710, inclusive, of the General Code.*

2. *Under the provisions of section 12706 of the pharmacy act it is unlawful for anyone who is not "a legally registered pharmacist or a legally registered assistant pharmacist employed in a pharmacy or drug store under the management or control of a legally registered pharmacist" to sell a drug, chemical, poison or pharmaceutical preparation, excepting such substances as are excepted from the operation of said section by the following section of said pharmacy act. For violating the provisions of said section one is subject to a fine of not less than fifty dollars nor more than two hundred dollars.*

3. *Whether or not a substance is a poison or other matter mentioned in said section is a question of fact. However, the properties of wood alcohol and denatured alcohol are so well known in reference to their injurious and deadly effects when taken internally as to afford little or no difficulty in the determination of the question of the practical operation of said section in view of the commonly known meaning of the word poison.*

4. *The so-called poison laws embraced within sections 12663 et seq. G. C. are still in full force and effect, excepting in those instances wherein they are in direct conflict with the provisions of the pharmacy act, i. e., sections 12705 et seq. G. C.*

COLUMBUS, OHIO, December 14, 1921.

State Board of Pharmacy, HON. M. N. FORD, Secretary, Columbus, Ohio.

GENTLEMEN:—Your letter of recent date is as follows:

"At a recent meeting of the board I was directed to request you to