

visions of Section 2915 of the General Code is also appointed by a court under the provisions of Section 1547 of the General Code for the purpose of taking shorthand notes before a grand jury, such stenographer would be entitled to per diem compensation, if the appointment is for less than one year, for each day such reporter is actually engaged in the taking of testimony before the grand jury, unless the two positions are incompatible. The statutes of Ohio do not inhibit a stenographer appointed by the prosecuting attorney performing services as an assistant shorthand reporter appointed by the court, under the provisions of Section 1547 of the General Code, for the purpose of taking stenographic notes before a grand jury, nor do I find anything in the duties of these positions which makes either a check upon or subordinate to the other so that if it is physically possible for one person to properly perform the duties of both positions they are not incompatible and such stenographer would be entitled to receive, in addition to the compensation received from the funds allowed to a prosecuting attorney, per diem compensation for each day such stenographer is engaged in taking shorthand notes of the testimony before a grand jury.

In view of the discussions herein and in specific answer to your inquiries, I am of the opinion that:

1. No authority exists for the payment of compensation to a stenographer for the preparation of a bill of exceptions in a criminal case, nor for the payment of a stenographer for making a transcript of testimony for a defendant in a criminal case in the court of a justice of peace. However, under the provisions of Section 1552 of the General Code, a stenographer who makes a transcript of the testimony in a criminal case in the court of common pleas at the request of a defendant receives compensation out of the county treasury.

2. A stenographer appointed by the prosecuting attorney, under the provisions of Section 2915 of the General Code, may lawfully serve as a reporter appointed by the court, providing it is physically possible to properly perform the services of both positions, and may lawfully receive, in addition to compensation as prosecuting attorney's stenographer, per diem compensation for each day such stenographer is engaged in taking shorthand notes of the testimony before a grand jury.

Respectfully,

GILBERT BETTMAN,
Attorney General.

2172.

APPROVAL, ABSTRACT OF TITLE, WARRANTY DEED AND ENCUMBRANCE ESTIMATE TO LAND OF ELLMER H. ERNST AND HELEN M. ERNST, IN FRANKLIN TOWNSHIP, ROSS COUNTY, OHIO.

COLUMBUS, OHIO, July 30, 1930.

HON. CARL E. STEEB, *Secretary, Ohio Agricultural Experiment Station, Columbus, Ohio.*

DEAR SIR:—This is to acknowledge receipt of your communication of recent date submitting for my examination and approval an abstract of title, warranty deed, encumbrance estimate No. 140, Controlling Board certificate and other files relating to the purchase of a tract of 30 acres of land in Franklin Township, Ross County, Ohio, which is owned of record by Ellmer H. Ernst and Helen M. Ernst, and which is more particularly described as follows:

"Beginning at a set stone which replaces a stake set by Vance Foster, the southeasterly corner of Surveys 3041 and 13,441 and for which a white oak (now gone) was called for; thence with the line of said Survey No. 13,441 N. 30° W. 122 poles to a set stone on the bank on the westerly side of a deep gulch; thence S. 89° 30' W. 45 poles to a set stone in a deep ravine; thence S. 30° E. 122 poles to a white oak 6 inches in diameter marked by hacks of an ax; thence N. 89° 30' E. 45 poles to the place of beginning, containing thirty acres of land more or less, and being the first tract described in the deed of William Raypole and Phania Raypole dated April 20, 1917, and recorded in Deed Book 178, page 477, Deed Records of Ross County, Ohio."

My examination of the abstract of title submitted to me in this matter was supplemented by an examination of another abstract of title to which I had access in the office of the Auditor of State, relating to a larger tract of 225 acres of land formerly owned by one James Hammond and which then included the 30 acre tract of land here under investigation. Upon examination of these abstracts of title, I find that said Ellmer H. Ernst and Helen M. Ernst have a good merchantable fee simple title to the above described tract of land free and clear of all encumbrances other than the undetermined taxes for the year 1930, which are, of course, a lien upon this property. Upon examination of the warranty deed tendered by said Ellmer H. Ernst and Helen M. Ernst, I find that the same has been properly executed and acknowledged and that said deed is in form sufficient to convey to the State of Ohio a fee simple title to the above described property, which is warranted by said deed to be free and clear of all encumbrances whatsoever.

Upon examination of encumbrance estimate No. 140, which has been submitted as a part of the files relating to the purchase of said property, I find that the same has been properly executed and approved, and that the same shows that there are sufficient balances in the proper appropriation account to pay the purchase price of said property, which purchase price is the sum of \$240.00. It likewise appears by certificate of the Controlling Board under date of April 21, 1930, that the purchase price of this property has been released for the purpose by said board.

I am herewith returning, with my approval, said abstract of title, warranty deed, encumbrance estimate No. 140, Controlling Board certificate and other files submitted to me with respect to this matter.

Respectfully,

GILBERT BETTMAN,
Attorney General.

2173.

APPROVAL, BONDS OF STRUTHERS CITY SCHOOL DISTRICT, MAHONING COUNTY, OHIO—\$42,000.00.

COLUMBUS, OHIO, July 30, 1930.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.