

tion 3370, General Code, and further states that the trustees or township highway superintendents shall employ the necessary labor and teams at a price to be fixed by the board of township trustees, nevertheless, I do not believe that this section evidences an intent to prohibit a township trustee from performing actual labor on such work in his capacity as supervisor of township roads. It would seem to be a waste of public money if a township trustee were forbidden to perform labor upon such road in his capacity as road supervisor and the township forced to pay for labor which a township trustee, while acting as supervisor, may furnish at no additional cost to the township.

In such a situation it should be noted that Sections 3294 and 3372, General Code, relating to the \$250.00 yearly limitation upon a township trustee's compensation, will apply.

In considering the second question presented by your inquiry, viz., whether a township trustee may be employed as a driver of a tractor or grader on roads of the township in a district under the supervision of another township trustee, as provided in Section 3370, supra, it should be noted that the exact language of Section 12912, General Code, requires that a township trustee must have an interest in the "profits" arising from the work done by the township in order to come under its stricture.

"Profit" is defined in Webster's New International Dictionary, among other things, as "accession of good; valuable results; benefit or gain". There is little doubt that the receipt of \$2.50 per day by a township trustee amounts to his obtaining gain or benefit, and I believe he would have a financial interest in the profits arising from the work done for the township.

In view of the foregoing, it is my opinion that:

1. A township trustee in charge of township road maintenance and repair under Section 3372, General Code, may drive a tractor and grader on such roads and receive \$2.50 for each day of service in the discharge of such duties, but the total compensation of such township trustee, to be paid from the treasury, shall not exceed the \$250.00 yearly limitation imposed by Sections 3294 and 3372, General Code.

2. Under Section 12912, General Code, a township trustee is prohibited from receiving compensation for the driving of a tractor or grader on township roads under the supervision of another township trustee who has control of such roads under the provisions of Section 3370, General Code.

Respectfully,
GILBERT BETTMAN,
Attorney General.

2904.

APPROVAL, LEASE TO LAND ADJACENT TO WATERS OF BUCKEYE LAKE,
OHIO—EDWARD PALMER.

COLUMBUS, OHIO, February 3, 1931.

HON. I. S. GUTHERY, *Director of Agriculture, Columbus, Ohio.*

DEAR SIR:—You will find enclosed herewith a reservoir land lease, which you have submitted for my examination and approval.

By the enclosed lease above referred to, which has been executed by the Conservation Commissioner, there is leased and demised to the respective lessee therein named, subject to the conditions and restrictions therein provided, and for a term of fifteen years, a parcel of land adjacent to the waters of Buckeye Lake, which parcel of land is more particularly described in said respective lease.

The lease here in question, designated with respect to the name of the respective

lessee therein and the appraised valuation of the parcel of land covered by said lease, is the following:

Name	Valuation
Edward Palmer	\$100.00

The above mentioned lease is executed under the authority of Section 471, General Code, as amended by the Conservation Act, passed by the 88th General Assembly.

Upon examination of the provisions of said lease, I find that the same is in conformity with the provisions of said section of the General Code and with other statutory provisions relating to leases of this kind.

Said lease is accordingly hereby approved by me as to its legality and form, which approval is evidenced by my authorized signature on said lease, and upon the duplicate and triplicate copies thereof.

Respectfully,
GILBERT BETTMAN,
Attorney General.

2905.

COUNTY DITCH IMPROVEMENT—RAILROAD RIGHT-OF-WAY HELD AS
EASEMENT—SUCH PROPERTY MAY BE ASSESSED, COMMENSURATE
WITH BENEFIT RECEIVED:

SYLLABUS:

Railroad right of way property may be assessed for a county ditch improvement benefiting such property, whether the same is owned in fee by the railroad company or is held as an easement by the company for railroad right of way purposes.

The assessment levied upon a particular tract or parcel of railroad right of way property for such county ditch improvement should be commensurate with the special benefit received by such tract or parcel as compared with the whole of the benefits conferred by such improvement.

COLUMBUS, OHIO, February 3, 1931.

HON. JOHN H. HOUSTON, *Prosecuting Attorney, Georgetown, Ohio.*

DEAR SIR:—This is to acknowledge receipt of your recent communication which reads as follows:

“The Commissioners of Brown County have caused to be constructed in this County certain ditch projects, in accordance with Sections 6442 of the General Code of Ohio to 6508, General Code of Ohio. These improvements include, in certain instances, sections of Railroad Right of Way in active use for Railroad purposes. The specific section involved in this construction is Section 6455 of the General Code, which reads as follows:

“The Surveyor in making his estimate of the amount to be assessed each tract of land, and the Commissioners in amending, correcting, confirming,