

4317.

OFFICES INCOMPATIBLE—JUSTICE OF PEACE AND CITY POLICE
PATROLMAN.

SYLLABUS:

A person may not occupy the offices of justice of the peace and city police patrolman at the same time.

COLUMBUS, OHIO, May 13, 1932.

Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

GENTLEMEN:—Acknowledgment is made of your recent communication which reads as follows:

“You are respectfully requested to furnish this office with your written opinion upon the following question:

May the same person occupy the two positions of justice of peace and city police patrolman at the same time, the latter position being under the civil service.”

As you indicate in your communication, a city police patrolman is in the classified service of a city. Hence it is necessary to examine the provisions of the civil service law (sections 486-1, et seq., General Code,) to see if there is anything therein which would prevent a person in the classified service from holding a public office simultaneously. There is no doubt but that a justice of the peace is a public officer, for section 1711-1, General Code, provides in part as follows:

“That there be and is hereby established in each of the several townships in the several counties of the state of Ohio, except townships in which a court other than a mayor's court now exists or may hereafter be created having jurisdiction of all cases of which justices of the peace have or may have jurisdiction, the *office* of justice of the peace.” (Italics the writer's.)

Section 486-23, General Code, a section of the civil service law, provides in part:

“* * * nor shall any officer or employe in the classified service of the state, the several counties, cities and city school districts thereof be an officer in any political organization or *take part in politics* other than to vote as he pleases and to express freely his political opinions.” (Italics the writer's.)

This office has several times held that holding public office is taking part in politics within the inhibition of the above section. The most recent expression on this point was contained in my opinion No. 3398, rendered July 3, 1931. In the syllabus of said opinion, it was held:

“A duly elected township constable may not concurrently hold a position under the classified service of a city.”

After quoting the portion of section 486-23, General Code, above set forth, the opinion refers to three former opinions of this office holding that a person in the classified service is taking part in politics if he holds public office. See Opinions of the Attorney General for 1928, Vol. II, page 1119; Opinions of the Attorney General for 1929, Vol. II, page 837, and Vol. III, page 1904.

The three opinions, above mentioned, are very exhaustive in their discussion of the legal proposition involved in this opinion, and, therefore, it is unnecessary to re-state herein the reasons on which their conclusion is based.

In view of the above discussion, I am of the opinion, in specific answer to your question, that the same person may not occupy the offices of justice of the peace and city police patrolman at the same time.

Respectfully,

GILBERT BETTMAN,
Attorney General.

4318.

APPROVAL, TRANSCRIPT OF PROCEEDINGS FOR SALE OF CANAL
LANDS IN PICKAWAY AND UNION COUNTIES, TO ANDREW COR-
CORAN OF CIRCLEVILLE, OHIO.

COLUMBUS, OHIO, May 13, 1932.

HON. T. S. BRINDLE, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—This is to acknowledge the receipt of a certain transcript in duplicate of your proceedings relating to the proposed sale to one Andrew Corcoran of Circleville, Ohio, of certain abandoned Ohio Canal lands in Wayne Township, Pickaway County, and in Union Township, Ross County, Ohio, which lands are more particularly described as follows:

“Beginning at the northerly line produced across said canal property of the lands owned by the applicant herein, at or near Station 3728+81, of the W. H. Heiby Survey of said canal property in Wayne Township, Pickaway County, Ohio, and running thence southerly with the lines of said canal property Eight Hundred and Four (804') feet, more or less, as measured along the transit line of the said Heiby Survey to the Pickaway-Ross County line, at or near Station 3736+85, of said survey, and containing One and Ninety-hundredths (1.90) acres, more or less.

Also that portion of said canal property in Union Township, Ross County, Ohio, beginning at the said Pickaway-Ross County line, and running thence southerly with the lines of said canal property nine hundred and fifteen (915') feet, more or less, as measured along said transit line to Station 3746, of said survey, and containing One and Eighty-two hundredths (1.82) acres, more or less.”

Upon examination of your proceedings relating to the sale of this property which sale is for the sum of two hundred seventy-nine dollars (\$279.00), the appraised value of the property, I find that in said proceedings you have made the necessary findings of fact which authorize you to sell this property subject to the