

and probable that premiums on surety bonds would be paid by contractors in the regular course of business without any relation to the receipts from the particular contract for which the bond had been furnished and regardless of whether or not the contractor received any profit from that particular contract, and unless it could be shown at the time of the letting of the contract that there existed an agreement or an understanding between the mayor and the contractor that the contractor's bond should be furnished by the mayor who was to receive his pay from the profits of this contract, I am of the opinion that under the proper construction which must be placed upon penal statutes, the mayor could not be prosecuted under Section 12912, General Code, simply because he had furnished bonds and received a commission therefor to contractors on contracts made with the village of which he was the mayor. See *Richardson vs. Trustee 6 O. N. P.* (N. S.) 505, *State vs. Pinney*, 13 Ohio Decisions 210.

Specifically answering your question, I am of the opinion that for the mayor of the village to act as agent for a surety company, and execute bidding or construction bonds required to be given by contractors when making contracts with the village, for which service he receives a commission from the surety company, is a violation of Section 3808, General Code, and subjects the mayor to the penalties imposed by the statute.

Respectfully,

EDWARD C. TURNER,

Attorney General.

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DISAPPROVAL, ABSTRACT OF TITLE TO LAND FRANKLIN
TOWNSHIP, ADAMS COUNTY, OHIO.

COLUMBUS, OHIO, August 17, 1927.

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

DEAR SIR:—You have submitted an abstract of title last continued by Horace G. Pettit to September 29, 1926, supplemented by certain data in the form of certified copies of probate court proceedings and recorded deeds, which are accompanied by an encumbrance estimate No. 946 to Clara R. Herman and A. Z. Tillotson, executor of Edward A. Day's estate for \$3,405.00, and the deed of Clara R. Herman and Phillip Herman, her husband, for real estate situate in the Township of Franklin, County of Adams and State of Ohio, the first tract containing two hundred and thirty-six (236) acres more or less and being a part of O. S. U. lot No. 83; the second tract containing one hundred and ninety-four (194) acres more or less and being a part of O. S. U. lot No. 84 lying north of the Brown tract; and the third tract containing two hundred and fifty-one (251) acres more or less in O. S. U. lot No. 84, lying south of the Brown tract, the same being bounded and described as follows:

First Tract: Situated in the Township of Franklin, County of Adams, and State of Ohio, and known as being a part of O. S. U. lot 83, in said township and county, beginning at a double Chestnut oak, corner to survey No. 15001, and corner of Lot No. 82; thence with one line of said lot west 20 poles to a stone in the line of Survey No. 16068; thence S. 11° W. 126 poles to a black oak, corner to Survey No. 13338; thence S. 45° E. 22 poles

to a forked burr oak; thence S. 45° W. 48 and one-half poles to a Black Oak; thence S. 11° W. 20 poles to a White Oak, corner to a 50 acre tract in said lot No. 83, owned by A. J. Powell; thence with three lines thereof S. 58° 15' E. 95 poles to a White Oak and Chestnut; thence S. 10° E. 57 poles to a Gum Chestnut oak and stone; thence S. 33° 15' 32 poles to a black oak and Hickory and stone in line of Lot 94; thence with one line of said lot S. 55° 30' E. 140 poles to a Spanish Oak and Chestnut Oak in the edge of a bottom corner to Survey No. 10752; thence with the same N. 15° E. 144 poles to a stone in Palmers field; thence N. 44°, E. 6 poles to three gums, corner to said Survey No. 15001; thence with lines thereof N. 34°, W. 41 poles to a Hickory, White Oak and Black Oak in a field; thence N. 26° 15' E. 85 poles to a Dogwood on east hillside; thence N. 34° W. 41 poles to a stake; thence N. 80° W. 132 poles to a stone, on West hillside; thence N. 103 poles to place of beginning, containing 236 acres, more or less.

Second Tract:—Also another piece or parcel of land, situated in the same Township, County and State, and known as being part of O. S. U. lot No. 84 in said Township and County, beginning at an Ash and Dogwood near a branch, Northeast corner to Survey No. 15001; thence with two lines thereof S. 8° 15' W. 254 poles to a White Oak and Dogwood; thence S. 8° E. 26 poles to a stone near a Dogwood and Jack Oak, corner to a tract of 55 acres, part of said lot No. 84, now or formerly owned by Allen Brown; thence with one line thereof S. 83° E. 104½ poles to a stone and Chestnut in line between the Counties of Scioto and Adams; thence with said line N. 2° W. 436 poles to a stone and White Oak in said line and in the line of Survey No. 16035; thence with one line thereof S. 80° W. 53 poles passing two poles north of Poplar Deer Lick to a stone and two Black Oaks, corner to Lot 82; thence with one line thereof S. 45° W., 137 poles to the place of beginning, containing 194 acres more or less, being a part of Lot No. 84 lying north of the said "Brown tract".

Third Tract:—Also another piece or parcel of land, situated in the same Township, County and State, and known as being a part of O. S. U. Lot No. 84, in said Township and County, lying south of said Brown tract, beginning at a stone, southwest corner to said Brown tract, and in the line of Survey No. 10757; thence South 7° W. 66 poles to a White Oak and Maple, corner to Survey No. 15637; thence with the same South 7° E. 222 poles to two Gums on bank of Rardan Creek; thence south 51° 30' E. 15 poles, crossing Rardan Creek twice to a Sycamore, White Oak and Sourwood at the edge of a high bank; thence south 37° east 44½ poles crossing Rardan Creek twice to a Maple, Gum and stone in bottom of north side of Rardan Creek; thence south 52° east 40½ poles, crossing road twice to a white oak stump in edge of road; thence north 81° E. 41 poles crossing a point to a line between the Counties of Scioto and Adams; thence with the same north 20° W. 336 poles to a stone, Dogwood, Black Oak, Sassafras in said line, southeast corner to said Brown tract; thence with one line thereof north 83° W. 119 poles to the place of beginning, containing 251 acres more or less.

Being the land described in a warranty deed from Thomas O. Guernsey to Clara R. Herman, dated June 5, 1918, and recorded in Vol. 117, pages 513-515, Adams County, Ohio, Records of Deeds.

After an examination of the abstract of title and accompanying data, it is my opinion that Clara R. Herman has a good and merchantable title in said premises subject to the following:

(1) A mortgage to Edward A. Day, executed June 12, 1923, and recorded in Vol. Q-2, page 446 of the Record of Mortgages, Adams County, Ohio, for the purpose of securing the mortgagor's note for \$2,100.00, the due date of which is not stated in the abstract.

(2) Taxes for the years 1926 and 1927 are unpaid and liens. The amount of the 1926 tax is not stated and the 1927 tax is as yet undetermined.

The encumbrance estimate contains the certificate of the Director of Finance to the effect that there are unencumbered balances in the Division of Forestry, G-1 Lands, sufficient to cover the purchase price.

The deed submitted is sufficient to convey said premises to the State when properly delivered.

The abstract and accompanying data, the deed and the encumbrance estimate are herewith returned.

Respectfully,
EDWARD C. TURNER,
Attorney General.

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BOARD OF DEPUTY STATE SUPERVISORS OF ELECTIONS—AMOUNT OF SALARY TO WHICH DECEASED MEMBER IS ENTITLED.

SYLLABUS:

Under the provisions of Section 4822, General Code, the estate of a member of the board of deputy state supervisors of elections, who deceases during his term of office, is entitled to that proportion of the yearly salary of a member of such board, as the number of days served in that year by said member, bears to the total number of days of the year, less any amount already drawn by said member for services during said time.

COLUMBUS, OHIO, August 17, 1927.

HON. LEROY W. HUNT, *Prosecuting Attorney, Toledo, Ohio.*

DEAR SIR:—This will acknowledge receipt of your recent communication requesting my opinion as follows:

“An interpretation of Section 4822 of the General Code will be appreciated by this office.

Peter M. Ragan, who held the office of Deputy State Supervisor and Inspector of Elections, died May 22nd, 1927. He was succeeded in office by J. A. Lehnertz, who presented his credentials on May 31st, 1927.

The question arises as to how the salary of a member of the Board should be prorated between the estate of Peter M. Ragan and the present incumbent, J. A. Lehnertz.