

ways." I assume that the office to which Mr. Miller has been appointed is Resident *Division* Deputy Director, as the letter of transmittal accompanying the bonds so states.

The second of the above listed bonds appears to be properly executed in accordance with the provisions of sections 1182-2 and 1182-3, General Code, *supra*.

The third of the above listed bonds seems to be properly executed in accordance with the provisions of sections 1182-3 and 1183, General Code, *supra*. However, I would suggest that in the ninth line of the bond the words "in Champaign and Clark counties" be added to the words "as Resident District Deputy Director of Highways." I assume that Mr. Studebaker has been appointed Resident District Deputy Director in Champaign and Clark counties, as the letter of transmittal so states.

Finding said bonds in proper legal form, I hereby approve said bonds as to form and return them herewith.

Respectfully,
JOHN W. BRICKER,
Attorney General.

1022.

OFFICES INCOMPATIBLE—CLERK-TREASURER OF TOWNSHIP MAY NOT AT SAME TIME HOLD POSITION OF DEPUTY-TREASURER OF COUNTY IN WHICH SAID TOWNSHIP IS LOCATED.

SYLLABUS:

The clerk-treasurer of a township may not at the same time hold the position of deputy treasurer of the county in which the said township is located.

COLUMBUS, OHIO, July 7, 1933.

HON. ERNEST L. WOLFF, *Prosecuting Attorney, Norwalk, Ohio.*

DEAR SIR:—I have before me your recent communication wherein my opinion is requested with reference to the following question:

"Can the Clerk-Treasurer of a township, while he is such, hold the position of Deputy-Treasurer of a county?"

My immediate predecessor, in the syllabus of an opinion, reported in Opinions of the Attorney General for 1931, at page 1417 of volume III, held:

"The same person may not simultaneously hold positions of city auditor and deputy auditor of the county in which the city is located."

The body of such opinion discloses reasoning which by analogy is applicable to the matter you present. In said opinion it is pointed out that the county auditor is, by the terms of section 5625-19, General Code, a member of the county budget commission, and that since section 9, General Code, provides that "a deputy when duly qualified, may perform all and singular the duties of his principal", a deputy auditor may act in the place of the auditor as a member of the county budget commission. It is further shown that under the provisions of section 5625-24, General Code, the county budget commission adjusts the amounts required by the various subdivisions in the county, and in doing so, may be compelled to make changes in the original estimates contained in the budgets submitted by the municipalities in the county. The opinion further discloses that it is sometimes

necessary to require the fiscal officers of the subdivisions to appear before the budget commission to discuss possible changes in the estimates, and that the duties of the deputy county auditor as a possible member of the budget commission would conflict with the duties of a city auditor, inasmuch as said city auditor might be required to appear before the budget commission to insist upon a proper share of funds for his subdivision.

It now is appropriate to apply the reasoning of such opinion to the matter at hand. It is clear that the county treasurer is a member of the county budget commission. See section 5625-19, General Code. Under section 9, the deputy treasurer may act for the county treasurer on such commission. Section 5625-1d provides that the fiscal officer of a township is the township clerk. Hence, it is clear that there might be occasions when the township clerk, as fiscal officer of his township, would be called before the county budget commission on which he was, as deputy treasurer, acting in place of the county treasurer. In such a situation, he would under his duties as township clerk be required to insist upon a proper share of the revenue for his subdivision, and under his duties as acting county treasurer on the budget commission, be required to adjust the funds among the subdivisions in an unbiased manner. Obviously, there would be conflicting duties which would, under the common law test of incompatibility, render the office of township clerk-treasurer and position of deputy county treasurer incompatible.

In view of the foregoing, I am of the opinion that the clerk-treasurer of a township, while he is such, may not hold the position of deputy treasurer of a county.

Respectfully,
 JOHN W. BRICKER,
Attorney General.

1023.

APPROVAL, CERTAIN RESERVOIR LAND LEASE TO LAND AT PORTAGE LAKES, FOR THE RIGHT TO OCCUPY AND USE FOR BOATHOUSE, DOCKLANDING AND WALKWAY PURPOSES—H. D. KIENZLE.

COLUMBUS, OHIO, July 11, 1933.

HON. EARL H. HANEFELD, *Director of Agriculture, Columbus, Ohio.*

DEAR SIR:—This is to acknowledge the receipt of a recent communication from the chief of the bureau of inland lakes and parks in the division of conservation, submitting for my examination and approval a certain reservoir land lease in triplicate executed by the conservation commissioner, pursuant to the authority conferred upon him by section 471, General Code, to one H. D. Kienzle of Akron, Ohio. By this lease, which is one for a stated term of fifteen years and which provides for an annual rental of six dollars payable in semi-annual installments, there is given and demised to the lessee above named the right to occupy and use for boathouse, docklanding and walkway purposes that portion of the water front and state land in the rear thereof that lies immediately in front of Lot No. 692 of the Cottage Grove Addition on the east shore of East Reservoir, Portage Lakes.