

O. D., 289; 1921 *Opinions of the Attorney General*, 317; 1927 *Opinions of the Attorney General*, 1175; and *U. S. v. Saunders*, 120 U. S., 126.

In view of the foregoing, I am of the opinion that in the event it is physically possible, the positions of probation officer of the court of common pleas and county attendance officer may be concurrently held by the same person; and the person so holding may receive compensation for both positions from appropriate funds.

Respectfully,
GILBERT BETTMAN,
Attorney General.

3433.

APPROVAL, PETITION FOR AMENDMENT OF ARTICLE XVI OF THE
CONSTITUTION OF OHIO.

COLUMBUS, OHIO, July 16, 1931.

CHARLES H. HUBBELL, ESQ., *Attorney at Law, Engineers Bldg., Cleveland, Ohio.*

DEAR SIR:—You have submitted to me a written petition signed by more than 100 qualified electors of the State, containing a proposed constitutional amendment and a synopsis thereof, for my examination under the provisions of Section 4785-176, General Code.

It is proposed to amend Article XVI of the Constitution of the State of Ohio by adding thereto Section 4, which section shall read as follows:

“Any one or more of the proposed amendments or laws to which reference is made in this section may contain provisions regarding the extension of the terms of office of elective or appointive state, county, municipal, school and/or other officers and/or provisions regarding any other related or unrelated subject matter or subject matters.

If there shall be two or more such proposed amendments and/or laws, any one or more of them may contain provisions either related or unrelated to the subject matter or subject matters contained in the other such proposed amendment or amendments and/or law or laws.

At each state-wide primary election and at each November election, whether in an even numbered year or in an odd numbered year, subsequent to the date this amendment goes into effect, there shall be submitted to the electors of the state, for their approval or rejection, any number of amendments to this constitution and/or any number of laws which, on or within ten days before the ninetieth day prior to the date of such primary or such November election, shall be proposed and filed with the secretary of state by any elector of this state who, if such amendment or amendments and/or law or laws shall be proposed and filed prior to the year one thousand nine hundred and thirty seven, shall have been a candidate for the office of judge of the supreme court at the November election held in the year one thousand nine hundred and thirty, and a candidate for any office mentioned in the group hereinafter named at each state-wide primary election for any such office and at each November election for any such office held in even numbered years subsequent to

the year one thousand nine hundred and thirty and prior to the time of proposing and filing such amendment or amendments and/or law or laws, or who, if such amendment or amendments and/or law or laws shall be proposed and filed subsequent to the year one thousand nine hundred and thirty six, shall have been a candidate for any office mentioned in the group hereinafter named at each state-wide primary election for any such office and at each November election for any such office held in even numbered years during the preceding five calendar years; provided that no such proposed amendment or law shall be so submitted at any primary election in any even numbered year or at the November election in any even numbered year unless, at said primary election or at said November election, the name of the proponent thereof shall appear on the ballot as a candidate for an office mentioned in the group hereinafter named.

The group to which reference is hereinbefore made shall consist of offices as follows: The office of United States Senator, the office of Representative at large in the Congress of the United States, the office of judge of the supreme court, the office of governor and other state offices the incumbents of which are elected at large by electors throughout the state. Candidates for different offices at different primary or November elections shall qualify any candidate to propose and file any amendment or amendments and/or law or laws.

The secretary of state may cause any such proposed amendment or amendments and/or law or laws, together with the form of official ballot therefor, to be published once a week for five consecutive weeks preceding such election, in one or more newspapers in each county of the state where a newspaper is published.

Every such amendment or law precisely as proposed shall be regarded as one separate, distinct and indivisible entity, and shall be so submitted as to enable each elector to cast either one affirmative vote or one negative vote thereon; but, if two or more such proposed amendments or laws shall be submitted at the same election, they shall, so far as may be practicable, be submitted on one ballot. All such ballots shall be without party designation of any kind and shall be separate from the ballots for candidates for office or for other measures or questions excepting initiated amendments to the constitution and initiated laws.

If at any election there shall be submitted two or more such amendments or laws proposed by different proponents, there shall be printed on the ballots in distinctive type before each such proposed amendment or law a designation showing by whom proposed, as 'Proposed by John J. Doe.'

If a majority of the electors voting on any such proposed amendment shall approve said amendment, the same shall become a part of the constitution and shall go into effect thirty days after the election at which it shall be so approved; provided that, if two or more amendments concurrently submitted to the electors, whether proposed under the authority of this section of the constitution or otherwise, receive the approving or affirmative votes of a majority of the electors voting thereon and if it be held that there is conflict between the provisions of any two or more of said amendments, nevertheless all of the amendments so approved shall become a part of the constitution and shall go into effect, excepting that, in so far as matters in conflict are concerned, the provisions of the amendment or amendments receiving a greater number of approving or affirma-

tive votes shall take precedence and control over the provisions of the amendment or amendments receiving a lesser number of approving or affirmative votes.

If a majority of the electors voting on any such proposed law shall approve said law, the same shall be the law and shall go into effect thirty days after the election at which it shall be so approved; provided that, if two or more proposed laws concurrently submitted to the electors, whether proposed under the authority of this section of the constitution or otherwise, receive the approving or affirmative votes of a majority of the electors voting thereon and if it be held that there is conflict between the provisions of any two or more of said laws, nevertheless all of the laws so approved shall be the law and shall go into effect, excepting that, in so far as matters in conflict are concerned, the provisions of the law or laws receiving a greater number of approving or affirmative votes shall take precedence and control over the provisions of the law or laws receiving a lesser number of approving or affirmative votes.

The fulfillment of the requirements set forth in Section 4785-175 or Section 4785-176 or elsewhere in the Statutes of the State of Ohio or of the requirements set forth in Section 1a or section 1g of Article II or elsewhere in the Constitution of the State of Ohio shall not be a condition precedent to such proposed amendment or amendments and/or law or laws being placed on the ballot and being submitted to the electors.

All costs and expenses incident to the submission of such proposed amendment or amendments and/or law or laws shall be paid by the state. The auditor of state, upon receipt of any voucher signed by the secretary of state, shall draw his warrant on the state treasurer for such amount as may be necessary to pay for such costs and expenses, and the same shall be paid from the general revenue fund of the state. The provisions of this section are mandatory and shall be self-executing."

I have carefully examined the text of the foregoing proposed amendment as submitted to me and I am of the opinion that it is correct as to form. Accordingly, I submit, for uses provided by law, the following certification:

"I, Gilbert Bettman, Attorney General of the State of Ohio, pursuant to the duty imposed upon me under the provisions of section 4785-176 of the General Code of Ohio, hereby certify that the foregoing proposed amendment of the Constitution of Ohio, by the addition to Article XVI of Section 4, is correct as to form. GILBERT BETTMAN, Attorney General."

The synopsis of the foregoing amendment is in the following language:

"The Proposed Amendment to the Constitution of the State of Ohio provides that at each primary and November election there shall be submitted to the electors amendments to the constitution and/or laws proposed and filed with the secretary of state by any elector who shall have been a candidate for a certain specified office or offices at a certain specified election or elections; provides that such proposed amendments or laws may contain provisions regarding related or unrelated subject matters; provides that such proposed amendments or laws may be published in newspapers; provides that every such amendment or law shall

be regarded as one separate, distinct and indivisible entity, and shall be so submitted as to enable each elector to cast either one affirmative or one negative vote thereon; provides that ballots shall designate the names of proponents under certain circumstances; provides that such amendments or laws shall go into effect if a majority of the electors shall approve thereof; provides that, in case of conflict between two or more approved amendments or between two or more approved laws, a degree of precedence and control shall be taken by any amendment or law receiving a greater number of approving or affirmative votes over any amendment or law, respectively, receiving a lesser number of such votes; provides that the fulfillment of requirements set forth in the statutes or elsewhere in the constitution shall not be a condition precedent to such proposed amendments or laws being placed on the ballot and submitted to the electors; provides that costs and expenses incident to the submission of such proposed amendments or laws shall be paid by the state from the general revenue fund; and provides that the provisions of this amendment are mandatory and shall be self-executing."

I am of the opinion that the foregoing is a fair and truthful summary of the contents and purposes of the proposed amendment. Accordingly, I submit, for uses provided by law, the following certification:

"I, Gilbert Bettman, Attorney General of the State of Ohio, pursuant to the duty imposed upon me under the provisions of section 4785-176 of the General Code, hereby certify that the foregoing is a fair and truthful summary of the contents and purposes of the proposed amendment of the Constitution of Ohio, by the addition to Article XVI of Section 4. GILBERT BETTMAN, Attorney General."

It should be observed that the function of the Attorney General under the law is not to pass upon the wisdom or unwisdom of a proposed amendment. His function with respect to the amendment is to pass upon its form. With respect to the synopsis, his function is to determine that it is a fair and truthful summary of the contents and purposes of the proposed law or amendment so that the electors in passing judgment thereon may be clearly apprised of the proposed change in the law and its purposes.

Respectfully,
GILBERT BETTMAN,
Attorney General.

3434.

DISAPPROVAL, PETITION FOR AMENDMENT TO ARTICLE XII, SECTION 12, OHIO CONSTITUTION.

COLUMBUS, OHIO, July 16, 1931.

MR. C. E. WHARTON, *Kenton, Ohio.*

DEAR SIR:—You have submitted to me a written petition signed by more than 100 qualified electors of the State, containing a proposed constitutional amendment