

and the township and the fixing of tax levies, etc., as provided by General Code Section 5649-1, et seq., the result might be that the two boards would be placed in the position of adversaries.”

The same conclusion was reached in Opinion No. 1314, Id., Vol. III, page 2375. See also Opinion No. 2306, Opinions Attorney General 1930, Vol. III, page 1718, in which it was held that the “offices of township trustee and member of the board of a general health district are incompatible”, for the same reasons.

I concur in the opinions of my predecessors above cited, and for the reasons given in such opinions, I am constrained to hold that the office of township trustee and member of the board of park commissioners are incompatible.

In view of the foregoing, and for the reasons above set forth, it is my opinion that:

1. Township trustees are without authority under Section 3427-1, General Code, or any other section, to expend funds of a township for the purpose of constructing a swimming pool in a park owned and under the control of a village located in such township.

2. The offices of township trustee and a member of the board of park commissioners of a township created under the provisions of Sections 3415, et seq., of the General Code, are incompatible.

Respectfully,

THOMAS J. HERBERT,
Attorney General.

1576.

CONTRACT—STATE WITH THE GEM CITY ELEVATOR COMPANY, EQUIPMENT AND ELEVATOR, MEDICAL COTTAGE, MASSILLON STATE HOSPITAL, MASSILLON.

COLUMBUS, OHIO, December 14, 1939.

HON. CARL G. WAHL, *Director, Department of Public Works, Columbus, Ohio.*

DEAR SIR: You have submitted for my examination and approval a contract by and between the State of Ohio, acting through you as Director of the Department of Public Works for the Department of Public Welfare, with The Gem City Elevator Company, Dayton, Ohio, for the construction and completion of Contract for Elevator for a project known as Equipment and Elevator for Medical Cottage, Massillon State Hospital, Massillon, Ohio, as set forth in Item 7, Elevator—pages 35,

36, 37 and 38 of specifications of the Form of Proposal dated October 9, 1939, all according to Plans and Specifications, which Plans, Specifications and Proposal are made a part of this contract. This contract calls for an expenditure of \$5,050.00.

You have submitted the following papers and documents in this connection: Notice to bidders; proof of publication; division of contract; form of proposal containing contract bond signed by The Ohio Casualty Insurance Company; its power of attorney for the signer; its certificate of compliance with the insurance laws of Ohio; contract encumbrance record No. 94; tabulation of bids; estimate of cost; Controlling Board's Release; recommendations of State Architect; approval of P. W. A.; Workmen's Compensation Certificate showing a compliance with the laws of Ohio relating to Workmen's Compensation; letter from the Auditor of State, showing all necessary papers are on file in his office.

Finding said contract in proper legal form, I have noted my approval thereon, and same is transmitted herewith to you, together with all other papers submitted in this connection.

Respectfully,

THOMAS J. HERBERT,
Attorney General.

1577.

STATE PENAL OR REFORMATORY INSTITUTION—WHERE PAROLEE CONVICTED OF SECOND OR SUBSEQUENT FELONY—COMMITTED WHILE OUT ON PAROLE—SENTENCED TO OHIO STATE REFORMATORY—SHOULD BE TRANSFERRED TO OHIO PENITENTIARY BY DEPARTMENT PUBLIC WELFARE—SECTIONS 2140, 2210-2, G. C.—STATUS WHERE PRISONER SIMULTANEOUSLY CONVICTED OF AND SENTENCED ON TWO OR MORE FELONIES—SENTENCE CONCURRENT, CONSECUTIVE, SAME LENGTH OF TIME—OPINIONS ATTORNEY GENERAL, 1937, VOLUME III, PAGE 2249, BRANCHES 1 AND 3 OF SYLLABUS OVERRULED.

SYLLABUS:

1. *Where a parolee from a state penal or reformatory institution is convicted of a second or subsequent felony committed while out on parole and is sentenced to the Ohio State Reformatory, such prisoner should be transferred to the Ohio Penitentiary by the Department of Public Welfare, under authority of and in accordance with the provisions of Sections 2140 and 2210-2, of the General Code. (Opinion No. 5745, Opinions, Attorney General, 1936, approved and followed.)*

2. *Where a prisoner is simultaneously convicted of and sentenced*