

Section 4785-72, General Code, requires that the petitioners certify that the aspirant is a candidate for the office he seeks. It provides so far as pertinent as follows:

"Attached to each declaration of candidacy shall be a petition signed by the required number of electors, as follows:

PETITION FOR CANDIDATE

We, the undersigned, qualified electors of the State of Ohio, and of the county, (city, district, township, ward and precinct) set opposite our names, and members of the ----- party, hereby certify that ----- who resides at ----- city (or township) of ----- in the county of ----- and who is a candidate for the office (or position) of ----- to be voted for at the primary next hereafter to be held, and whose declaration of candidacy is herewith filed, is a member of the ----- party, and is, in our opinion, well qualified to perform the duties of the office for which he is a candidate. * * * "

Obviously, the Legislature contemplated that when a person circulates his petition, as required in Section 4785-70, General Code, he is a candidate for the office he seeks.

In view of the above considerations, I am of the opinion, in specific answer to your first question, that a person is not eligible as a candidate for the office of prosecuting attorney who has not been admitted to the bar of Ohio at the time of filing his declaration of candidacy. I am further of the opinion, in specific answer to your second question, that a person who expects to take the bar examination on July 15, 16, and 17, 1930, cannot be nominated for the office of prosecuting attorney, at the primary to be held on August 12, 1930.

Respectfully,
GILBERT BETTMAN,
Attorney General.

1974.

CEMETERY—PLATTED AS PART OF VILLAGE AND DEDICATED TO
PUBLIC USE—TITLE IN SAID VILLAGE.

SYLLABUS:

Where a cemetery is duly platted and dedicated to public use, and lies within the limits of an incorporated village and is not owned or under the care of a religious or benevolent society or an incorporated company or an association, the title to said cemetery is vested in the village.

COLUMBUS, OHIO, June 13, 1930.

HON. HAROLD A. PREDMORE, *Prosecuting Attorney, Hillsboro, Ohio.*

DEAR SIR:—Acknowledgment is made of your recent communication in which you present the question as to where the title of a cemetery located within the corporate limits of the village of Greenfield is vested.

From your communication and other data which you submit, it appears that the cemetery under consideration, was platted as a part of the original village of Greenfield, Ohio, and dedicated to public use in 1802. It further appears from the statement in your communication, that the title to such cemetery was never transferred to

any association or to the township trustees of Madison Township in which it is understood the village of Greenfield is located. You further state that you have ruled that under the provisions of Section 4174 of the General Code, the title to said cemetery is in the village of Greenfield. Section 4174, General Code, reads as follows:

"The title to, and right of possession of public graveyards and burial grounds, located within a village and set apart and dedicated as public graveyards or burial grounds, grounds used as such by the public, but not dedicated, except those owned or under the care of a religious or benevolent society, or an incorporated company or association, are hereby vested in the corporation where such graveyard or burial ground is located."

An analysis of the section last above quoted clearly discloses that the title and right of possession of cemeteries located within a village and dedicated to the public and grounds used as such by the public but not dedicated are vested in the municipality excepting such cemeteries owned or under the care of religious or benevolent societies or an incorporated company or association. Applying the plain provisions of said section to the facts which you present the conclusion is irresistible that the title to such lands is in the village of Greenfield.

Your attention is called to Section 4174-1, General Code, as enacted by the 87th General Assembly, in 112 O. L., 60, in which there is authority for the transferring of title of a cemetery from a village to a township under the circumstances therein set forth. However, inasmuch as you do not indicate that any such action was taken, it is believed unnecessary to give any further consideration to the provisions of said section.

In specific answer to your inquiry, it is my opinion that where a cemetery is duly platted and dedicated to public use, and lies within the limits of an incorporated village and is not owned or under the care of a religious or benevolent society or an incorporated company or an association, the title to said cemetery is vested in the village.

Respectfully,

EDWARD C. TURNER,

Attorney General.

1975.

APPROVAL, LEASE FOR RIGHT TO USE WATER TAKEN FROM THE
LEVEL OF THE TUSCARAWAS FEEDER TO EAST RESERVOIR IN
THE CITY OF AKRON, SUMMIT COUNTY, OHIO.

COLUMBUS, OHIO, June 13, 1930.

HON. ALBERT T. CONNAR, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—You have submitted for my examination and approval a certain water lease in triplicate, by the terms of which the State of Ohio, through you as Superintendent of Public Works, has leased and granted to the Tuscarawas Country Club of Akron, Ohio, an Ohio corporation, the right and privilege to take from the level of the Tuscarawas Feeder to East Reservoir in Summit County, Ohio, a quantity of water amounting approximately to 3,000 gallons per hour for the term of five years, said water to be taken in each of the years during said term only from the first day of June to the thirty-first day of October, inclusive.

By the terms of said lease the above named lessee is to pay to the State of Ohio