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TOWNSHIP TRUSTEES, BOARD OF:

1. STATE LAW—EACH TOWNSHIP SHALL HAVE BOARD OF TOWNSHIP TRUSTEES—THREE MEMBERS—VACANCIES SHALL BE FILLED TO SECURE CONTINUITY OF SERVICE.
2. POWER TO FILL VACANCIES—CONFERRED UPON PROBATE JUDGE BY SECTION 3262 G. C. IN TOWNSHIP WHERE THERE ARE NO JUSTICES OF PEACE OR MUNICIPAL COURT JUDGES.

SYLLABUS:

1. The law of this state contemplates that each township shall have a board of township trustees composed of three members, and that vacancies on the board shall be filled in order to secure continuity of service.

2. The power to fill vacancies on a board of township trustees is conferred upon the probate judge by Section 3262, General Code, in townships, wherein there are no justices of the peace or municipal court judges.

Columbus, Ohio, September 11, 1945

Hon. John B. Hill, Prosecuting Attorney
Washington C. H., Ohio.

Dear Sir:

This will acknowledge receipt of your letter relating to the filling of a vacancy in the board of trustees of Green township caused by the death of one of the trustees, and inquiring if it is mandatory that an appointment be made to fill the vacancy, and if so, who is to make the appointment.

The law of this state contemplates that each township shall have a board of trustees composed of three members, and that unnecessary vacancies in office should be avoided in order to secure continuity of public service. This policy is disclosed by Section 2 of Article X, Ohio Constitution, which requires that the General Assembly shall provide for the election of township officers; by Section 3268, General Code, which provides for the election of three township trustees; by Section 2 of Article XVII, Ohio Constitution, relating to the filling of vacancies in elective

offices; and by Section 3262, relating specifically to the filling of vacancies on township boards of trustees. See also *State v. Metcalf*, 80 O. S., at page 261, where the court, speaking on the general subject of vacancies in office, and the legislative policy with respect to the filling of vacancies since the adoption of our present constitution, said that, "The policy has been to secure continuity of service and avoid unnecessary vacancies."

Section 3262, General Code, reads as follows:

"When for any cause a township is without a board of trustees or there is a vacancy in such board, the justice of the peace of such township holding the oldest commission, or in case the commission of two or more of such justices bear even date, the justice oldest in years shall appoint a suitable person or persons, having the qualifications of electors in the township to fill such vacancy or vacancies for the unexpired term. Wherever in any township a municipal court shall replace and supersede the justices of the peace, the municipal judge shall have power to fill vacancies on the board of trustees. In those townships wherein there are no justices of the peace or municipal judges the probate judge shall have the power to fill vacancies on the board of trustees."

I note the statement in your letter that Green township has no justice of the peace, and that no person in the township will accept an appointment to that office. If such be the case, and in view of the additional fact that no municipal court has been established to replace and supersede justices of the peace in the township, the power to fill the present vacancy on the board of township trustees is conferred upon the probate judge of Fayette county by Section 3262, quoted above:

You are therefore advised as follows:

1. The law of this state contemplates that each township shall have a board of township trustees composed of three members, and that vacancies on the board shall be filled in order to secure continuity of service.
2. The power to fill vacancies on a board of township trustees is conferred upon the probate judge by Section 3262, General Code, in townships wherein there are no justices of the peace or municipal court judges.

Respectfully,

HUGH S. JENKINS

Attorney General