

thony Sweazy and L. A. Keister (transaction No. 3). In 1925, L. A. Keister conveyed his interest to Anthony Sweazy and, in 1928, David Lloyd conveyed his interest to Anthony Sweazy (transactions No. 1 and No. 2).

Apparently, Anthony Sweazy has since died, because the grantors in the proposed deed to the state are described as being the widow and children and heirs at law of Anthony Sweazy. Further information is desired to show that the debts of the estate of Anthony Sweazy have been paid and to show in what manner he ordered his property to be disposed. If Anthony Sweazy left no will, an affidavit is desired showing that the people named as grantors in the proposed deed are all and the only heirs of said Anthony Sweazy and that Rachel Sweazy is his widow.

As shown by the enclosed receipt, the taxes for 1930 have been fully paid. However, the taxes for the year 1931 are now a lien upon said property.

Encumbrance estimate No. 1786 shows that there remains in the proper appropriation account a sufficient balance to pay the purchase price of said land, but I call your attention to the fact that said encumbrance estimate has not yet been signed by the director of finance.

The state controlling board has given its approval to the purchase.

The proposed deed is in proper form to convey a fee simple title to the State of Ohio.

Enclosed please find all of the documents and papers above enumerated.

Respectfully,

GILBERT BETTMAN,
Attorney General.

4065.

NOTARY PUBLIC—FEES CHARGEABLE FOR TAKING DEPOSITIONS
AND SWEARING WITNESSES—BASED ON SECTION 1746-2 G. C.

SYLLABUS:

Pursuant to Section 127, General Code, a notary public should charge for taking depositions and swearing witnesses the fees set forth in Section 1746-2, General Code.

COLUMBUS, OHIO, February 18, 1932.

HON. F. H. BUCKINGHAM, *Prosecuting Attorney, Fremont, Ohio.*

DEAR SIR:—Your recent communication reads:

“I have been asked to submit to you the following question relative to the fee allowed a Notary Public for taking depositions:

General Code Section 11545 states: ‘The following fees shall be allowed for taking depositions in this state: Swearing each witness, four cents; * * * for each hundred words contained in the deposition and certificate, ten cents. * * *’

Section 127 of the General Code says that ‘A notary public shall be entitled to the following fees: * * * for taking and certifying depositions and affidavits, administering oaths and other official services, the

same fees as are allowed by law to justices of the peace for like services.'

General Code Section 1746-2 says that a justice shall be allowed twenty-five cents per hundred words for writing depositions and ten cents for administering an oath.

There is apparently a conflict in these sections as to the proper charge to be made by a notary and I would appreciate your opinion on the same."

You have quoted the pertinent portions of Sections 11545 and 127, General Code. The pertinent provisions of Section 1746-2 read as follows:

"For miscellaneous services justices of the peace shall charge and collect from the persons for whom the services are rendered the following fees, and no more: * * * taking depositions and certifying to same, twenty-five cents per hundred words; swearing witnesses, each, ten cents; * * *."

From an examination of the above statutes, it is clear that Section 127, General Code, enacted in 85 O. L. 87, is in conflict with the provisions of Section 11545, General Code, enacted in 51 O. L. 57. According to the well known rule of statutory construction that when legislation upon the same subject is in conflict, the later enactment will prevail, it follows that the provisions of Section 127, General Code, which allow fees charged by notaries for taking depositions to be governed by the fees allowed justices of the peace for taking and certifying depositions, will control as to such notary public fees over the provisions of Section 11545, which sets a fixed amount for officers taking depositions and swearing witnesses.

In view of the foregoing and in specific answer to your inquiry, I am of the opinion that pursuant to Section 127, General Code, a notary public should charge for taking depositions and swearing witnesses the fees set forth in Section 1746-2, General Code.

Respectfully,

GILBERT BETTMAN,
Attorney General.

4066.

SCHOOLS—TRANSPORTATION OF CRIPPLED AND NORMAL CHILDREN—COMPULSORY SCHOOL AGE—BOARD OF EDUCATION MAY FURNISH TEXTBOOKS AND PERSONAL NECESSITIES TO CHILDREN OF COMPULSORY SCHOOL AGE.

SYLLABUS:

1. *When an elementary school pupil resides more than two miles from the school to which it is assigned, transportation for such child must be furnished by the board of education of the school district where the child resides, or the parents or persons in charge of such child paid for transporting it.*