

The abstract states no examination has been made in the United States District or Circuit Courts, nor in any subdivision thereof.

Taxes for the year 1923, although as yet undetermined, are a lien against the premises.

It is suggested that the proper execution of a general warranty deed by Charles R. Swickard and wife, if married, will be sufficient to convey the title to said premises to the state of Ohio when properly delivered.

Attention is also directed to the necessity of the proper certificate of the Director of Finance to the effect that there are unencumbered balances legally appropriated sufficient to cover the purchase price before the purchase can be consummated.

The abstract submitted is herewith returned.

Respectfully,
C. C. CRABBE,
Attorney General.

686.

APPROVAL, BONDS OF NORTH COLLEGE HILL, HAMILTON COUNTY,
\$3,580.00, IN ANTICIPATION OF COLLECTION OF SPECIAL ASSESS-
MENT.

COLUMBUS, OHIO, September 4, 1923.

*Department of Industrial Relations, Industrial Commission of Ohio, Columbus,
Ohio.*

687.

SCHOOLS—COUNTY SUPERINTENDENT MAY ACCEPT EMPLOYMENT
AS INSTRUCTOR IN STATE NORMAL SCHOOL IF HIS SERVICES
ARE NOT OTHERWISE DEMANDED BY COUNTY BOARD OF EDU-
CATION DURING VACATION PERIOD.

COLUMBUS, OHIO, September 4, 1923.

SYLLABUS:

While the several sections of the General Code relative to county superintendents do not seem to contain a positive inhibition against such county superintendent accepting employment as instructor in a state normal school, it is believed that the language of section 7706, General Code, would preclude such service during the usual nine months session of the public schools.

If during the vacation season the county board of education does not require the service of the county superintendent in a teacher's training course and his services are not otherwise demanded by such board during such vacation period, and no conflict of duty would arise thereby, his acceptance of employment as an instructor in a state normal school during such vacation period would be legal.

Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

GENTLEMEN:—Yours of recent date received, in which you submit the following inquiry:

“May a county superintendent legally act as, and receive pay for serving as instructor in one of the state normal schools?”

Your attention is first directed to section 4744 of the General Code, which provides for the election, qualifications and somewhat of the duties of the office of county superintendent, and reads as follows:

“The county board of education at a regular meeting held not later than July 20th, shall appoint a county superintendent for a term not longer than three years commencing on the first day of August. Such county superintendent shall have the educational qualifications mentioned in section 4744-4. He shall be in all respects the executive officer of the county board of education, and shall attend all meetings with the privilege of discussion but not of voting.”

Section 7706, General Code, makes further provision relative to the duties of a county superintendent, as follows:

“The county superintendent and each assistant county superintendent shall visit the schools in the county school district, direct and assist teachers in the performance of their duties, and classify and control the promotion of pupils. The county superintendent shall spend not less than one-half his working time, and the assistant county superintendents shall spend such portion of their time as the county superintendent may designate in actual class room supervision. *Such time as is not spent in actual supervision shall be used for organization and administrative purposes, and in the instruction of teachers.* At the request of the county board of education the county superintendent and the assistant county superintendents shall teach in the teachers' training courses which may be organized in the county school district.”

Sections 7706-1, 7706-2, 7706-3, and 7706-4 provide other duties of a county superintendent.

Section 4744-1 makes provision for the salary of a county superintendent and the manner in which it shall be paid. Said section reads as follows:

“The salary of the county superintendent shall be fixed by the county board of education to be not less than twelve hundred dollars per year, and shall be paid out of the county board of education fund on vouchers, signed by the president of the county board. Half of such salary up to the amount of two thousand dollars shall be paid by the state and the balance by the county school district. In no case shall the amount paid by the state be

more than one thousand dollars. The county board may also allow the county superintendent a sum not to exceed three hundred dollars per annum for traveling expenses and may employ an efficient stenographer or clerk for such superintendent. The part of all salaries and expenses paid by the county school district shall be prorated among the village and rural school districts in the county in proportion to the number of teachers employed in such district, but the county board of education must take into consideration and use any funds secured from the county dog and kennel fund or from any other source and which is not already appropriated before the amount is prorated to the various rural and village districts."

In Throop on Public Offices, section 33, will be found the following:

"Offices are said to be incompatible and inconsistent, so as not to be executed by the same persons, when from the multiplicity of business in them they cannot be executed with care and ability, or when, their being subordinate and interfering with each other, it induces a presumption that they cannot be executed with impartiality and honesty. And in Dillon on Municipal Corporations it is said that incompatibility in offices exists where the nature and duty of the two offices are such as to render it improper from considerations of public policy, for one incumbent to retain both."

No where in any of the above sections do we find a direct inhibition against a county superintendent accepting employment as an instructor in a state normal school. There being no direct inhibition, your question should be considered relative to the physical impossibility of a county superintendent serving as an instructor in a state normal school and at the same time discharging his duties as county superintendent. As a matter of public policy, if the service by the county superintendent as instructor in the state normal school is attempted during the usual nine months period of the session of the public schools, it would seem to be impracticable, if not impossible and illegal. This conclusion is based on the principle that the county superintendent's first duty is to render a full measure of service to the public schools of the county school district wherein he is employed.

The above conclusion is strengthened by the provisions of section 7706, G. C., supra, which provides, in part, that

"The county superintendent shall spend not less than one-half of his working time, and the assistant county superintendents shall spend such portion of their time as the county superintendent may designate, in actual class room supervision. Such time as is not spent in actual supervision shall be used for organization and administrative purposes and in the instruction of teachers."

While this is not a positive inhibition against service as an instructor of a state normal school, it would at least preclude such service during the usual nine months session of the schools.

If during the vacation season the county board of education does not require the service of the county superintendent in a teachers' training course, and his

services are not otherwise demanded by such board during such vacation period, and no conflict of duty would arise thereby, his acceptance of employment as an instructor in a state normal school during such vacation period would be legal.

Respectfully,

C. C. CRABBE,
Attorney General.

688.

AGE OF MAJORITY—WHO MAY CONTRACT MATRIMONY—SECTIONS
8023 AND 11181 G. C. CONSTRUED.

COLUMBUS, OHIO; September 4, 1923.

SYLLABUS:

Amended sections 11181 and 8023 of the General Code apply to all females under twenty-one years of age, and those who were eighteen years of age before the taking effect of these respective amended sections were of full legal age during the period between the date when they became eighteen years of age and the date of the taking effect of said amended sections, and resumed the status of minors upon the taking effect of said amended sections and so remain until they reach the age of twenty-one years.

HON. WILLIAM H. LUEDERS, *Judge, Probate Court, Cincinnati, Ohio.*

DEAR SIR:—Acknowledgment is made of the receipt of your recent request for the opinion of this department upon the following:

“The last legislature amended section 11,181 of the General Code (Senate bill 193)—which amended section became a law on either July 18th or 19th, 1923. Said section 11,181 as amended reads as follows:

‘Male persons of the age of 18 years and female persons of the age of 16 years, not nearer of kin than second cousins, and not having a husband or wife living, may be joined in marriage.

Any person under the age of 21 years must first obtain the consent of his or her parents, surviving parent or guardian.’

“Under the old law, female persons of 18 years of age were permitted to marry.

“Again, the last legislature amended section 8023 of the General Code (Senate bill 194) to read as follows:

‘All persons of the age of 21 years and upwards, who are under no legal disability, shall be capable to contract respecting goods, chattels, lands, tenements, and other matter or thing which may be a legitimate subject of a contract, and to all intents and purposes, be of full age.’

“The old law fixes the age of all female persons of the age of 18 years and upwards to be “full age.”