

"When the services of an engineer are required with respect to roads, turnpikes, ditches or bridges, or with respect to any other matter, and when, on account of the amount of work to be performed, the board deems it necessary, upon the written request of the county surveyor, the board may employ a competent engineer and as many assistant engineers, rodmen and inspectors as may be needed, and shall furnish suitable offices, necessary books, stationery, instruments and implements for the proper performance of the duties imposed on them by such board."

I find no provision of law that requires any of the deputies or other employes of the county surveyor to give their entire time and attention to the duties of the office. This is a matter for the county surveyor to determine. If he finds that it is not necessary to employ his deputies, or any one of them, for full time, such arrangements can be made and such fact be taken into consideration in the fixing of the deputies' compensation. If the county surveyor does not require his deputy to devote his entire time to the duties of his office, when not on duty as such deputy, the deputy may do any other work that is not inconsistent with his employment by the county; and if the deputy wishes to work for a city, when such work is not connected with the duties required of the county surveyor, there is no law which would prevent him from so doing.

I find no authority, however, for such deputy to perform work for a city in his capacity as deputy county surveyor and make any charge therefor under the fees prescribed by law and pay such fees into the county treasury.

Therefore answering your question specifically I am of the opinion:

(1) That a county surveyor may not perform services for a city when such services are not a part of his duties as county surveyor.

(2) This prohibition cannot be removed by the officer charging the city for said services and paying the money so received into the county treasury.

(3) A deputy county surveyor may be employed for part time and during that portion of his time which is not required under his appointment as deputy county surveyor, he may perform services for a city or any other corporation or person providing said services are in nowise inconsistent with the duties of his office.

Respectfully,

EDWARD C. TURNER,

*Attorney General.*

491.

GAME REFUGE LEASES—8 APPROVED—1 DISAPPROVED.

COLUMBUS, OHIO, May 14, 1927.

*Department of Agriculture, Division of Fish and Game, Columbus, Ohio.*

GENTLEMEN:—I have your letter of May 3rd, 1927, in which you enclose the following game refuge leases, in duplicate, for my approval:

No.	Name	Acres
971	J. S. Cochran, Butler county, Hanover and Ross townships-----	264
972	Grant Dare, Butler county, Hanover and Ross townships-----	65
973	Taylor Cochran, Butler county, Hanover and Ross townships----	193
974	C. R. and C. H. Hine, Butler county, Hanover and Ross townships	177
975	C. S. Merryman, Guernsey county, Oxford township-----	90
976	R. C. and J. F. Smith, Guernsey county, Oxford township-----	185
977	J. F. Smith, Guernsey county, Oxford township-----	78
978	Miami Conserv. Dist., Montgomery county, Wayne township----	1,222

I have examined said leases, find them correct as to form, except Lease No. 974 and I am therefore returning the same with my approval endorsed thereon.

I am returning herewith Lease No. 974 unapproved, for correction, for the following reasons:

1. C. R. and C. H. Hine appear as lessors, while C. R. and C. Hine and C. R. Hine sign said lease as lessors. The signature of C. H. Hine does not appear thereon.

2. The acknowledgment is defective in that the name of C. H. Hine does not appear in the acknowledgment clause but does appear in the granting clause.

I suggest that State Game Refuge Order No. 978 and the duplicates thereof attached to Lease No. 978 be corrected to show the proper date on which said lease is to commence, to-wit: May 1st, 1927, and to end, to-wit: May 1st, 1932. In some of the copies of Lease No. 978 the term of years for which said lease is to continue, to-wit: five years, is omitted and should be inserted on said copies.

Respectfully,  
EDWARD C. TURNER,  
*Attorney General.*

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#### HABEAS CORPUS—PAYMENT OF COSTS.

##### *SYLLABUS:*

*By the provisions of Section 12189, General Code, when a prisoner is discharged upon habeas corpus, the costs shall be taxed to the state and paid out of the county treasury upon the warrant of the county auditor of the county in which such proceeding was had.*

COLUMBUS, OHIO, May 14, 1927.

HON. RICHARD C. THRALL, *Prosecuting Attorney, Marysville, Ohio.*

DEAR SIR:—This will acknowledge receipt of your letter of recent date, which reads as follows:

“I would like to have your ruling upon the proper meaning of Section 12189 of the General Code.

We have quite a few habeas corpus cases in regard to women confined in the Women’s Reformatory. Who should pay the costs where relator is