

Conservation Council, by which there is leased and demised to one John H. Meyer, of Anna, Ohio, a certain parcel of State Reservoir Land, at Lake Loramie.

This lease, which is one for a term of fifteen years, permits the use of said parcel of land for agricultural purposes, and the annual rental provided for therein is six percent upon the appraised value of such property, which appraised value is the sum of \$500.00.

Upon examination of the provisions of said lease, I find that same was executed by the Conservation Council pursuant to the authority of Section 472-1, General Code, and that the same is in conformity with the provisions of said section and of other sections of the General Code relating to leases of this kind.

Said lease is accordingly hereby approved by me as to legality and form, and I have endorsed my approval upon said lease and upon the duplicate and triplicate copies thereof, all of which are herewith returned.

Respectfully,

GILBERT BETTMAN,
Attorney General.

2927.

OFFICES COMPATIBLE—TOWNSHIP TRUSTEE AND POSITION OF
DEPUTY REAL ESTATE ASSESSOR.

COLUMBUS, OHIO, February 7, 1931.

SYLLABUS:

The office of township trustee and the position of deputy real estate assessor may be held concurrently.

COLUMBUS, OHIO, February 7, 1931.

HON. JOHN K. SAWYERS, *Prosecuting Attorney, Woodsfield, Ohio.*

DEAR SIR:—Acknowledgment is hereby made of your request for my opinion which reads as follows:

“Are the offices of township trustee and land appraiser under appointment of the county auditor incompatible offices?”

It is assumed that the term “land appraisers under appointment of the county auditor,” as used in your letter, refers to deputy real estate assessors, since the latter are appointed by the county auditor and have the duty of ascertaining pertinent factors concerning the value of real estate.

The question you present was considered in an opinion found in Opinions of the Attorney General for 1920, page 1165, the syllabus of which reads as follows:

“The office of township trustee and the position of deputy real estate assessor are compatible.”

Since the rendition of the opinion above mentioned, section 5548 has been

amended several times, but that part of the section referring to the appointment of experts, deputies and clerks by the county auditor, has not been materially altered, neither have any special statutes been enacted which prohibit the occupants of either of the positions you mention from performing the duties of the other.

It is to be noted that a deputy real estate assessor has not the authority or duties of a deputy county auditor, but only the power to ascertain such pertinent circumstances reflecting upon the value of real estate as will aid the county auditor in fixing its true value in money.

In view of the foregoing, it is my opinion that the office of township trustee and the position of deputy real estate assessor may be held concurrently.

Respectfully,

GILBERT BETTMAN,
Attorney General.

2928.

TOWNSHIP CEMETERY — TOWNSHIP TRUSTEES ENJOINED BY OWNER OF A DWELLING HOUSE FROM CREATING AN ADDITION THERETO—PURCHASER OF SUCH DWELLING ENTITLED TO PROTECTION OF INJUNCTION—HOW RELEASE OR WAIVER OF PROPERTY OWNER OBTAINED.

SYLLABUS:

Where, at the suit of the owner of a dwelling house and other property in a court of competent jurisdiction, the township trustees of a township are enjoined from laying out and establishing a tract of land as an addition to a township cemetery, on the ground such tract of land is within two hundred yards from said dwelling house and other property of the plaintiff in such suit, and thereafter the owner of the dwelling house and other property, the plaintiff in such action, sells and conveys such dwelling house and other property to another person who thereafter owns and occupies such property, such person, by reason of his privity of estate with respect to the original owner in whose favor the injunction decree was rendered, is entitled to the protection of said injunction against any proceedings on the part of the township trustees to lay out and establish such tract of land for cemetery purposes.

If there are in the township treasury available moneys appropriated for the purpose, the township trustees of such township may acquire from the present owner of such dwelling house and other property a release and waiver of his property rights with respect to the establishment of said tract of land as an addition to the township cemetery and thereafter lay out and establish such lands for said purpose.

COLUMBUS, OHIO, February 9, 1931.

HON. JAY S. McDEVITT, *Prosecuting Attorney, Mt. Vernon, Ohio.*

DEAR SIR:—This is to acknowledge receipt of your communication which reads as follows:

“Some time prior to the 7th day of June, 1921, the township trustees