

parcel of land and to authorize the execution of the warranty deed by the acting mayor and the clerk of the village.

An examination of the warranty deed now submitted to me, shows that the same has been properly executed and acknowledged by Howard A. Geiger, acting mayor, and by W. H. Parshall, clerk of the village, and that the same is in form sufficient to convey to the State of Ohio, a fee simple title in and to the above described tract of land free and clear of all encumbrances whatsoever.

I am returning to you said corrected statement of title, warranty deed and copy of resolution referred to above.

Respectfully,
GILBERT BETTMAN,
Attorney General.

552.

OFFICES INCOMPATIBLE—SCHOOL TEACHER AND MUNICIPAL COUNCILMAN.

SYLLABUS:

A teacher in the public schools of the State of Ohio is ineligible to membership in the council of a municipality.

COLUMBUS, OHIO, June 24, 1929.

HON. MARION F. GRAVEN, *Prosecuting Attorney, Wooster, Ohio.*

DEAR SIR:—This will acknowledge your request for my opinion as follows:

“Is it proper and legal for a high school teacher, employed in such schools within the city of Wooster, holding no special office in such schools, to run for the office of councilman for the city of Wooster? In other words, are these two positions incompatible so that he would have to give up the one in order to hold the other?”

Section 4207, General Code, relating to the qualifications of councilmen in cities, reads as follows:

“Councilmen at large shall have resided in their respective cities, and councilmen from wards shall have resided in their respective wards, for at least one year next preceding their election. Each member of council shall be an elector of the city, shall not hold any other public office or employment, except that of notary public or member of the state militia, and shall not be interested in any contract with the city. A member who ceases to possess any of the qualifications herein required, or removes from his ward, if elected from a ward, or from the city, if elected from the city at large, shall forthwith forfeit his office.”

It is held in the case of *State ex rel. vs. Gard*, 8 O. C. C. (N. S.) 599, as follows:

“The inhibition found in Section 4207, G. C., against holding another public office is not limited to office in or appointment by the municipality, but extends to all public offices and employments.”

In a former opinion of this office, reported in the Opinions of the Attorney General for 1928, at page 1119, it was held that :

“A person employed in the classified civil service of the state may not legally be a candidate for the office of member of council of a village, nor hold such office by election or appointment.”

and further,

“Under the provisions of Section 4218, General Code, no member of the council of a village may legally hold any other public office or employment, except that of notary public or member of the state militia. The inhibition contained in the provisions of this section is not limited to holding another office in, or employment by, such village, but such inhibition extends to all other public offices and employments.”

Section 4218, General Code, referred to in the above opinion relates to the qualifications of councilmen in villages, and contains the same provision as does Section 4207, *supra*, with reference to such councilmen holding any other public office or employment except that of notary public or member of the state militia.

In an opinion found in the Annual Report of the Attorney General for 1912, at page 1638, it is held as stated in the syllabus :

“A councilman by express provisions of statute may hold no other public office or employment, except that of notary public or member of the state militia, and therefore neither a principal of a high school nor a janitor in a public school building may hold the office of councilman.”

In 1927, the Attorney General had occasion to consider the question of whether or not a teacher in the public schools was eligible to the position of councilman in a village. In his opinion reported in Opinions of the Attorney General for 1927, at page 2555, it was held :

Under the provisions of Section 4218, General Code, a person holding the position of school teacher is ineligible to membership in a village council.”

There could be no objection to a teacher employed in the public schools running for the office of councilman, but if elected thereto it would be necessary for him to give up one or the other of the positions.

In specific answer to your question, therefore, I am of the opinion that a teacher in the public schools of the State of Ohio is ineligible to membership in the council of the city of Wooster.

Respectfully,
GILBERT BETTMAN,
Attorney General.