

or injury. However, if the claimant is unable to support his statement as to the nature and amount of loss or injury by the testimony of at least two freeholders who viewed the results of the injury or loss, the county commissioners would not be authorized to allow the claim.

In specific answer to your inquiry, I am of the opinion that the failure of a dog warden to view live stock that has been injured or killed by a dog not belonging to the claimant, or harbored on his premises does not bar the board of county commissioners from allowing the claim for such loss or injury to live stock provided such claim is duly presented by the claimant in accordance with the provisions of Section 5840, of the General Code.

Respectfully,  
GILBERT BETTMAN,  
*Attorney General.*

1339.

**PUBLIC CEMETERY—OWNED BY TOWNSHIP TRUSTEES—TITLE VESTS  
IN VILLAGE WHEN TOWNSHIP INCLUDED IN SAID VILLAGE.**

*SYLLABUS:*

*Where a public cemetery operated by township trustees under the provisions of Section 3451, General Code, becomes located within the boundaries of a village, it becomes the property of said village through the terms of Section 4174, General Code, even though the township trustees failed to give a deed to said property to the village before their terms expired.*

COLUMBUS, OHIO, December 28, 1929.

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

GENTLEMEN:—This will acknowledge receipt of your recent request for my opinion, which reads as follows:

“A township owning and operating a cemetery has been included within the limits of a village, and by virtue of the provisions of Sec. 3512, G. C., all township offices were abolished and the duties are being performed by the corresponding officers of the village. The township trustees, at the time of the abolishment of their office, did not give the village title to this cemetery by making a deed.

Question: Does the village, under these conditions, automatically take title to the township cemetery?

We are enclosing herewith copy of a letter addressed to Mr. D. L. Rupert, State Examiner, in relation to this matter.”

Section 3451, General Code, provides that the title of all public cemeteries located without the corporate limits of any city or village, shall be vested in the trustees of the township where located.

Section 3512, General Code, provides:

“When the corporate limits of a city or village become identical with those of a township, all township offices shall be abolished, and the duties thereof shall thereafter be performed by the corresponding officers of the city or village, except that justices of the peace and constables shall continue the exercise of their functions under municipal ordinances providing offices, reg-

ulating the disposition of their fees, their compensation, clerks and other officers and employes. Such justices and constables shall be elected at municipal elections. All property, moneys, credits, books, records and documents of such township shall be delivered to the council of such city or village. All rights, interests or claims in favor of or against the township may be enforced by or against the corporation."

Section 4174, General Code, provides:

"The title to, and right of possession of public graveyards and burial grounds, located within a village and set apart and dedicated as public graveyards or burial grounds, grounds used as such by the public, but not dedicated, except those owned or under the care of a religious or benevolent society, or an incorporated company or association, are hereby vested in the corporation where such graveyard or burial ground is located."

The latter section is clear and unambiguous. Since the cemetery is now located in a village, title to it under specific statutory authority vests in the village.

The mayor of the village should, if he has not already done so, appoint a board of three trustees, as provided in Section 4175, General Code, to take charge of said cemetery.

Specifically answering your question, therefore, I am of the opinion that where a public cemetery operated by township trustees under the provisions of Section 3451, General Code, becomes located within the boundaries of a village, it becomes the property of said village through the terms of Section 4174, General Code, even though the township trustees failed to give a deed to said property to the village before their terms expired.

Respectfully,  
GILBERT BETTMAN,  
*Attorney General.*

1340.

ELECTION LAW—CANDIDATE FILING DECLARATION AND PETITION  
IN COUNTY OR DISTRICT LARGER THAN COUNTY BUT LESS THAN  
STATE—NUMBER OF SIGNATURES REQUIRED TO SAID PETITION.

**SYLLABUS:**

*Under Section 4785-70, General Code, as enacted by the 88th General Assembly, a person desiring to become a party candidate by the method of declaration, for an office to be voted for by the electors of a county or district larger than a county and less than the state, must file a declaration of candidacy as therein provided, accompanied by a petition signed by either one hundred electors of his party, or five per cent of the electors who voted for the party candidate for Governor at the next preceding regular state election.*

COLUMBUS, OHIO, December 28, 1929.

HON. CLARENCE J. BROWN, *Secretary of State, Columbus, Ohio.*

DEAR SIR:—Your letter of recent date is as follows:

"Please permit me, as Secretary of State, to ask for an Opinion from you