

1781.

COMPATIBLE AND INCOMPATIBLE OFFICE—TOWNSHIP
CLERK COMPATIBLE WITH CLERK UNION CEMETERY
BOARD.

SYLLABUS:

The office of township clerk is compatible with that of clerk of a Union Cemetery Board.

COLUMBUS, OHIO, January 19, 1938.

HON. NORTON C. ROSENTRER, *Prosecuting Attorney, Port Clinton, Ohio.*

DEAR SIR: This will acknowledge the receipt of your recent communication which reads as follows:

“Will you kindly advise, whether or not a Township Clerk may also act in the capacity of Clerk of a Union Cemetery Board created by joint action of the Village and the Township for which he is serving as Clerk at the present time.”

In the absence of express statutory inhibition or other disqualification, a person may hold more than one office unless the offices are incompatible from the nature of their functions and duties.

Provisions controlling the organization of a Union Cemetery Board may be found in Section 4193-1 et seq., of the General Code. Those sections providing for the office and duties of a Township Clerk may be found in Section 3299 et seq., of the General Code. A careful examination of these sections reveals no statutory inhibition upon one person holding the offices in question.

The common law rule as to incompatibility holds that:

“Offices are incompatible when one is subordinate to or in any way a check upon the other, or where it is physically impossible for one person to discharge the duties of both.”
(*State vs. Gebert*, 12 C.C. (N.S.) (274).)

I am unable to see that the duties of these offices would in any way conflict or interfere with each other. It is, therefore, my opinion that the office of township clerk is compatible with that of clerk of a Union Cemetery Board.

Respectfully,

HERBERT S. DUFFY,

Attorney General.