

This lease is one executed by you under the authority of House Bill No. 417, enacted by the 88th General Assembly under date of April 5, 1929, the provisions of which act have been carried into the General Code by designation as sections 14152-3, 14152-3a and 14152-9a. By this act the Superintendent of Public Works of Ohio as Director of such department is authorized to lease or sell, as you deem for the best interests of the state, abandoned Hocking Canal lands in Fairfield, Hocking and Athens Counties, such leases when executed to be in accordance with the provisions of section 13965, et seq., General Code.

Upon examination of this lease, I find that the same has been properly executed by you as Superintendent of Public Works and as Director of this department and by William Arbaugh, the lessee therein named. I also find, upon examination of the provisions of this lease and of the conditions and restrictions therein contained, that the same are in conformity with the statutory provisions above noted. I am accordingly approving this lease as to legality and form as is evidenced by my approval endorsed upon the lease and upon the duplicate and triplicate copies thereof, all of which are herewith returned.

Respectfully,

JOHN W. BRICKER,
Attorney General.

2904

APPROVAL—TWO BONDS FOR THE FAITHFUL PERFORMANCE OF
THEIR DUTIES AS INVESTIGATORS FOR THE DEPARTMENT OF
HIGHWAYS—FRANK M. QUINN, DON E. LOOMIS.

COLUMBUS, OHIO, July 9, 1934.

HON. O. W. MERRELL, *Director of Highways, Columbus, Ohio.*

DEAR SIR:—You have submitted two bonds, each in the penal sum of \$2,000.00, with sureties as indicated, to cover the faithful performance of the duties of the officials as hereinafter named:

Frank M. Quinn, Investigator, Department of Highways—New York
Casualty Company.

Don E. Loomis, Investigator, Department of Highways—New York
Casualty Company.

Said bonds have undoubtedly been executed pursuant to the provisions of sections 1182-2 and 1182-3, General Code. Such sections provide, in so far as pertinent here:

“Sec. 1182-2. The director may appoint * * * engineers, inspectors and other employes within the limits of the appropriation as he may deem necessary to fully carry out the provisions of this act. * * *”

“Sec. 1182-3. Each employe or appointee under the provisions of this act, in cases other than where the amount of the bond is herein fixed, may be required to give bond in such sum as the director may

determine. All bonds hereinbefore provided for shall be conditioned upon the faithful discharge of the duties of their respective positions, and such bonds * * * shall be approved as to the sufficiency of the sureties by the director, and as to legality and form by the attorney general and be deposited with the secretary of state. * * *

Finding said bonds to have been properly executed in accordance with the foregoing sections, I have accordingly approved the same as to form, and return them herewith.

Respectfully,
 JOHN W. BRICKER,
Attorney General.

2905.

VILLAGE—VACANCY IN COUNCIL FILLED HOW.

SYLLABUS:

1. *When a vacancy in a village council is discovered to have been in existence for a period of more than thirty days, such vacancy may be filled by council or by the mayor, whichever authority acts first.*

2. *Under such circumstances, when a motion is made and seconded by council to appoint a person to fill such vacancy and a vote thereon deferred by the mayor, in refusing to entertain the motion, until after the mayor has made an appointment, the appointment made by the mayor is of no legal effect and the person thereafter appointed by council is the legally appointed incumbent to fill such vacancy.*

COLUMBUS, OHIO, July 10, 1934.

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

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

“We are submitting the following question to you for your opinion:

When a person who has been duly elected to council takes office at the first meeting of the new council in January, and later, when it is determined that he did not have the necessary qualifications to legally act as councilman, resigns, does the vacancy date from the first meeting of the year, or from the time of his resignation?

A copy of all our correspondence relative to this inquiry, including the request that same be submitted to you for an opinion, is enclosed.”

The facts in the matter about which you inquire are set forth in the enclosed letter of the attorney for the village of Bainbridge, Ohio, as follows:

“As solicitor for the village of Bainbridge, Ross County, Ohio, I have been requested to secure your advice on the following question:

At the November election, 1933, Dr. C. was duly elected a member of the Village Council, and thereafter gave bond and qualified in the