

water, and, was for the purpose of providing the means whereby such water might be used by the lessee, it might well be questioned whether aside from the option to purchase contained in said lease, above stated, said lessee held any rights in said land or in the lease demising the same which survived the abandonment of the canal for hydraulic purposes. See Opinions of Attorney General for the year 1927, Vol. II, page 1382.

However, in my investigations of the questions presented by this lease and the option to purchase therein contained, my attention has been called to a number of unreported decisions by the Common Pleas Court of Hamilton County upholding similar option provisions in leases of Miami and Erie Canal lands in said county, which leases were quite identical with the lease here in question; and following these decisions as well as the administrative practice of your office in recognizing the validity of the optional provisions in these old Hamilton County leases of Miami and Erie Canal lands, of which there were quite a number, I am constrained to the view that your proceedings relating to the sale of the above described parcel of abandoned Miami and Erie Canal lands should be approved. I am accordingly approving the legality and form of your proceedings relating to the sale of this property, as is evidenced by my approval endorsed upon the transcript of said proceedings and the duplicate thereof, both of which are herewith returned.

Respectfully,
GILBERT BETTMAN,
Attorney General.

3503.

APPROVAL, BONDS OF CITY OF WAUSEON, FULTON COUNTY, OHIO
—\$23,000.00.

COLUMBUS, OHIO, August 13, 1931.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.

3504.

APPROVAL, BONDS OF THE VILLAGE OF WILLOUGHBY, LAKE
COUNTY, OHIO—\$53,000.00.

COLUMBUS, OHIO, August 13, 1931.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.

3505.

APPROVAL, BOND FOR THE FAITHFUL PERFORMANCE OF HIS
DUTIES AS RESIDENT DISTRICT DEPUTY DIRECTOR IN HARRI-
SON AND CARROLL COUNTIES—DEAN F. ROBERTS.

COLUMBUS, OHIO, August 13, 1931.

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

DEAR SIR:—You have submitted a bond in the penal sum of Five Thousand Dollars (\$5000.00), upon which the name of Dean F. Roberts appears as principal and the name of the National Surety Company appears as surety. Said bond is

conditioned to cover the faithful performance of the duties of the principal as Resident District Deputy Director assigned to Harrison and Carroll Counties.

Finding said bond proper as to form, I have accordingly endorsed my approval thereon and return the same herewith.

Respectfully,
GILBERT BETTMAN,
Attorney General.

3506.

OFFICES INCOMPATIBLE—MEMBER OF BOARD OF EDUCATION OF CITY SCHOOL DISTRICT AND COUNTY DEPUTY AUDITOR.

SYLLABUS:

The same person may not at the same time lawfully hold the position of member of a board of education of a city school district and deputy auditor of the county in which the school district is located.

COLUMBUS, OHIO, August 13, 1931.

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

GENTLEMEN:—This is to acknowledge receipt of your request for my opinion in answer to the following question:

“May the same person hold the position of member of a board of education of a city school district and a deputy auditor of the county in which the school district is located?”

A “deputy” is defined in Bouvier’s Law Dictionary as:

“One authorized by an officer to exercise the office or rights which the officer possesses, for and in place of the latter.”

Section 9 of the General Code of Ohio provides:

“A deputy, when duly qualified, may perform all and singular the duties of his principal.”

A deputy county auditor acts for and in place of the auditor, and may perform all and singular the duties of the auditor. It is possible for a deputy auditor to act for the auditor in any circumstances, and his acts will be the acts of his principal. It is probable that the occasion often arises when it is necessary for a deputy auditor to act in place of the auditor himself.

It is a well known fact that in some counties the deputy auditor, by reason of long experience in the position, is more familiar with the duties of the auditor’s office than the auditor himself and does in fact perform the more technical duties of the office. In any case, he is required, by reason of his powers as fixed by Section 9, General Code, *supra*, to hold himself in readiness, and be at all times qualified, to act for and in the stead of his principal. He should be qualified the same way and to the same extent as the latter. Commenting on this fact, a former Attorney General, in speaking of a deputy city auditor, was prompted to say:

“Hence, if the person who fills the office of city auditor is disqualified by reason thereof from holding some other office or position, it would seem to follow clearly that the one who acts as his deputy would be likewise prohibited from doing so.”

—Opinions of the Attorney General, 1917, p. 1744.