

Thus it is concluded that the obligation in question imposed upon the corporation by reason of the appraisal made for the purpose of acquiring the said water works plant is apparently such an indebtedness as may be said to be unlimited by the terms of section 2295-7 G. C. and unrestricted by the requirements of section 3806 G. C. From this conclusion it would follow that bonds may be issued for the payment of said indebtedness under the provisions of section 3916 G. C. provided council determines the same to be a present, fixed and valid obligation against the corporation as provided by section 3917 G. C.

Respectfully,

JOHN G. PRICE,
Attorney-General.

3863.

MUNICIPAL CORPORATIONS—WHEN COUNCIL MAY NOT APPOINT
“ANOTHER SUITABLE PERSON” POLICE JUSTICE:

Under the provisions of section 4544 G. C., council may not appoint “another suitable person” as police justice provided there is within the corporation a resident justice of the peace.

COLUMBUS, OHIO, January 4, 1923.

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

GENTLEMEN:—Receipt is acknowledged of your communication of recent date which reads as follows:

“We respectfully request your written opinion upon the following matter:

Question: In consideration of that provision of section 4544 G. C., which seems to require a mayor in appointing a police justice to appoint a resident justice of the peace, if there be such justice, could a village mayor legally appoint another suitable person as such police justice in case there was a resident justice of the peace?”

It may be noted that your question infers that the mayor under section 4544 G. C. may appoint a police justice. Strictly speaking however, it would seem that the appointing power under the statute is vested in council, “who may appoint,” to use the words of the section, upon recommendation of the mayor.

Pertinent to your question however, section 4544 G. C. provides:

“Upon the recommendation of the mayor, the council may, by an affirmative vote of two-thirds of all the members elected, appoint a justice of the peace, resident of the corporation, or if there is no such justice of the peace, another suitable person resident of the corporation or a justice of the peace for the township in which such corporation is situated, police justice, who shall, during the term of office of such mayor, unless removed on suggestion of such mayor by a two thirds vote of all the members of

the council, have concurrent jurisdiction of all prosecutions for violations of ordinances of the corporation with full power to hear and determine them, and shall have the same powers, perform the same duties, and be subject to the same responsibilities in all such cases as are prescribed by law, to be performed by and are conferred upon the mayors of such corporations. Any person so appointed police justice other than a justice of the peace shall take an oath of office and give bond in such sum for the faithful performance of his duties as the council may require."

The section quoted above provides that council may appoint upon recommendation of the mayor, a police justice, who shall have the qualifications of being a resident of the corporation and a justice of the peace. The section further provides that if there be no such justice of the peace, then council may appoint another suitable person, resident of the corporation, or a justice of the peace for the township in which such corporation is situated, as said police justice, etc. Thus it would seem to be the evident purpose of the statute to require council in the first instance to appoint a police justice having the qualifications of a resident justice of the peace, although providing as an alternative in the event there is no resident justice of the peace, that council may appoint another suitable person resident of the corporation, or a justice of peace for the township in which such corporation is situated. Hence, it would seem that section 4544 G. C. must be construed to mean that if council proceeds to the process of appointment, the first condition must be exhausted before recourse may be had to the alternative provision. That is to say, another suitable person could not be appointed as police justice by council if there should be a resident justice of the peace within the corporation. Such conclusion obviously answers your question in the negative.

Respectfully,

JOHN G. PRICE,

Attorney-General.

3864.

BOND ISSUE—REQUIREMENTS NECESSARY FOR BOND ISSUE UNDER SECTION 7630-1 G. C.—CITY BUILDING INSPECTOR NOT AUTHORIZED OR REQUIRED TO MAKE FINDING—WHERE CITY HAS CHARTER—NO EFFECT.

1. *In order that bonds may be issued under section 7630-1 G. C., the order creating the emergency described therein must be issued by the Division of Workshops and Factories in the Department of Industrial Relations following an examination by the inspectors of that division, and in a city school district wherein the municipality maintains a city building department, no function is required or authorized to be performed by such city building inspector under the general laws of the state.*

2. *Under the provisions of section 7630-1 G. C., there is no finding authorized or required of the city building inspector, and if a finding was made by the city building inspector following a physical examination of a school building, and such*