

cost of such improvement against the streets and alleys of said village abutting on the improvement or lying within any of the assessment areas provided for in Section 1214, General Code.

Respectfully,  
EDWARD C. TURNER,  
*Attorney General.*

669.

VACANCY—OFFICE OF CORONER—TOTAL TENURE SHALL NOT EXCEED FOUR YEARS.

*SYLLABUS:*

*Where there was no candidate for the office of coroner at the general election in November, 1926, the then incumbent may hold over under Section 8 of the General Code at least until his successor is elected or appointed and qualified, providing the total tenure under his election shall not exceed four (4) years. Whether after August 1, 1927, under amended Section 2829 G. C., a vacancy may be declared, question.*

COLUMBUS, OHIO, June 28, 1927.

HON. CARL Z. GARLAND, *Prosecuting Attorney, Batavia, Ohio.*

DEAR MR. GARLAND:—I beg to acknowledge receipt of yours of June 17th, requesting the opinion of this department upon the following facts:

"In this county there was not a candidate for coroner and no one was elected to that office. The coroner who served before the last election has not given any new bond, which I presume would be useless. Is it now the duty of the county commissioners under Section 2829 of the General Code to appoint a coroner?"

The commissioners up to this time have taken no action in the matter and I am desirous of knowing whether or not the coroner serving prior to the last election is coroner until his successor is appointed."

Section 2 of Article XVII of the Constitution of Ohio, as amended November 7, 1905, provides in part:

" \* \* \* and the term of office of all elective county, township, municipal and school officers shall be such even number of years not exceeding four (4) as may be so prescribed."

Section 2823 of the General Code provides:

"There shall be elected biennially in each county a sheriff and a coroner, each of whom shall hold his office for a term of two years, beginning on the first Monday of January next after his election."

Section 8 of the General Code provides:

"A person holding an office of public trust shall continue therein until his successor is elected or appointed and qualified, unless otherwise provided in the constitution or laws."

I do not think that at the present time there is such a vacancy in the office of coroner as could be filled by appointment. Whether after August 1, 1927, when the amendment to Section 2829 of the General Code becomes effective, there would be such a vacancy as might be filled by appointment by the county commissioners, I do not deem it necessary to decide in order to answer your question.

Specifically answering your question, I am of the opinion that the coroner serving prior to the last election is coroner until his successor is elected or appointed and qualified. Provided, however, that said officer does not serve more than four (4) years, including the two (2) for which he was elected.

As no county officer can serve more than four (4) years under a single election, this office will become vacant at the end of such four (4) year period.

See *State ex rel. vs. Brewster*, 44 O. S. 589; *State ex rel. vs. Thrall*, 59 O. S. 368; *State ex rel. vs. Baldwin*, 101 O. S. 65; (In this last mentioned case the statute applicable specifically declared a vacancy) *Opinions of the Attorney General for 1917*, page 1476.

Respectfully,  
EDWARD C. TURNER,  
*Attorney General.*

670.

CONTRACT—WHERE BONA FIDE BIDDER FOR STATE CONTRACT SUBMITS A BID WHICH IS BASED ON MISTAKE IN CALCULATION HE CANNOT BE COMPELLED TO EXECUTE THE PROPOSED CONTRACT—BID SHOULD BE REJECTED AND ANOTHER ACCEPTED.

*SYLLABUS:*

1. *Where a bona fide bidder for a contract for the construction of a building for the use of the state or an institution supported in whole or in part by the state in good faith submits a bid which is based on a mistake in calculation which would involve him in serious financial loss were he compelled to perform the work for the amount of the bid he cannot be compelled to execute the proposed contract.*

2. *The proper course to be pursued in such case is to reject the bid and accept another bid as provided in Section 2320 of the General Code.*

COLUMBUS, OHIO, June 28, 1927.

HON. HERBERT B. BRIGGS, *State Architect and Engineer, Columbus, Ohio.*

DEAR SIR:—Acknowledgment is made of your communication under date of June 24, 1927, in which you request my opinion as to the procedure to be followed in awarding the contract for the general contract work on a cottage to be constructed at the Orient Institution for Feeble Minded, Orient, Ohio. The following statement of facts and questions are quoted from your letter: