

4398.

APPROVAL, NOTES OF MONROE TWP. RURAL SCHOOL DIST., DARKE COUNTY, OHIO—\$2,150.00.

COLUMBUS, OHIO, June 8, 1932.

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

4399.

VACANCY—JUSTICE OF PEACE—TOWNSHIP TRUSTEES APPOINT A SUCCESSOR TO SERVE UNTIL NEXT REGULAR ELECTION FOR THAT OFFICE.

SYLLABUS:

Method of filling vacancy in office of justice of the peace caused by failure to furnish additional surety discussed.

COLUMBUS, OHIO, June 8, 1932.

HON. CAMERON MEACHAM, *Prosecuting Attorney, Portsmouth, Ohio.*

DEAR SIR:—Your recent request for my opinion reads:—

“A Justice of the Peace was properly notified to give additional surety and failed to do so. Can the trustees of the township in which this Justice of the Peace resides appoint another to act as Justice of the Peace under Section G. C. 1714 or are they limited to the provision of Section 1723, to give notice of a new election to fill the vacancy?”

Section 1723, General Code, to which you refer, reads as follows:—

“When, in the opinion of the trustees of a township, the surety of a justice of the peace is insufficient for any cause, they shall give notice in writing to such justice that he shall within ten days give additional surety to their satisfaction. On neglect or refusal of a justice to enter into a bond with sureties as required of him by this chapter, the office shall be deemed vacant and the trustees shall give notice of a new election to fill such vacancy.”

Section 1714, General Code, is as follows:—

“If a vacancy occurs in the office of justice of the peace by death, removal, absence for six months, resignation, refusal to serve, or otherwise, the trustees within ten days from receiving notice thereof, by a majority vote, shall appoint a qualified resident of the township to

fill such vacancy, who shall serve until the next regular election for justice of the peace, and until his successor is elected and qualified. The trustees shall notify the clerk of courts of such vacancy and the date when it occurred."

It is apparent from a reading of Section 1723, General Code, that upon the failure of a justice of the peace to give additional surety when required by the trustees of the township, the office shall be deemed vacant, and the trustees shall give notice of a new election to fill such vacancy.

Since a vacancy exists in such office, the provisions of Section 1714, General Code, relative to the filling of a vacancy in the office of justice of the peace apply. Consequently, the trustees of the township in question should appoint a qualified resident of the township to fill such vacancy who shall serve until the next regular election for justice of the peace and until his successor is elected and qualified, which election must be held in the odd-numbered years. (See Section 4785-4, General Code). And, under the principles announced in the case of *State ex rel. Harsha vs. Trexel*, No. 23474, Supreme Court of Ohio, (Ohio Bar, April 11, 1932), the next regular election for such office would be in November, 1933.

Respectfully,

GILBERT BETTMAN,
Attorney General.

4400.

NURSE'S SERVICES—CARE OF INDIGENT INSANE PERSON—PROPER CHARGE AGAINST TOWNSHIP WHERE SUCH PERSON HAS LEGAL SETTLEMENT.

SYLLABUS:

Upon compliance with the terms of section 3480-1, General Code, the payment for the services of nurses incurred in the care of an indigent insane person temporarily maintained in a city hospital, is a proper charge on the township in which said person had a legal settlement.

COLUMBUS, OHIO, June 8, 1932.

HON. EMMITT L. CRIST, *Prosecuting Attorney, Circleville, Ohio.*

DEAR SIR:—Your recent request for my opinion reads as follows:

"Several months ago the Probate Judge of our County, after due consideration, made a finding against a man on a lunacy inquest, and at the time the insane person was not expected to live and was held temporarily in the City Hospital, where the services of two nurses were required to properly care for him. This man was taken to the City Hospital by an agreement of the family, and at that time the Probate Judge had not committed the patient to any institution. The family was indigent and the Trustees of the Township wherein the man had a legal settlement were notified within three days and assumed the payment of the City Hospital bill, but did not agree at any time to pay the two nurses required due to the condition of the patient, and said