

become when in his active period. But this fact in no way relieves him of his quality as a pest. His scalp is valueless for bounty at this time. He is still a nuisance and he is not recognized by the game code as a game quadruped. The killing or taking of such an animal is not hunting in the usual and ordinary way intended by the legislature to require a hunter's and trapper's license for such taking or killing.

Persons who go upon the lands of another with permission for the purpose of killing or taking groundhogs, are doing what the statute, by offering a bounty for a time, encourages them to do to aid in ridding the state of what it deems a pest.

The broad general purpose of the game code in requiring sportsmen to take out a license to hunt and trap is the preservation of the wild life of the state from extinction securing in that way from the public, who find pleasure and profit in hunting and trapping, the funds with which to oversee, propagate and protect the wild animals usually considered desirable or valuable as game or fur. The groundhog is not so considered in this general view of the law but on the other hand is placed with the English sparrow, the owl and the hawk, for whose destruction a bounty may be paid.

For reasons before stated herein it is the opinion of this department that it is not necessary to secure a hunter's and trapper's license before pursuing, capturing or killing groundhogs on the lands of another when such person has the consent of the one in control of the land so to do.

Respectfully,
C. C. CRABBE,
Attorney-General.

796.

APPROVAL, BOND, \$5,000.00 FOR FAITHFUL PERFORMANCE OF DUTIES BY GEORGE E. CARR, AS RESIDENT DEPUTY HIGHWAY COMMISSIONER, DEPARTMENT OF HIGHWAYS AND PUBLIC WORKS, DIVISION OF HIGHWAYS—BOND EXECUTED BY THE AETNA CASUALTY AND SURETY COMPANY.

COLUMBUS, OHIO, October 8, 1923.

HON. THAD H. BROWN, *Secretary of State, Columbus, Ohio.*

797.

FINES—COURT HAS NO STATUTORY AUTHORITY TO TAKE A NOTE
—A BOND IS PROPER INSTRUMENT TO SECURE A FINE.

SYLLABUS:

A defendant sentenced to jail or workhouse under a sentence providing "until such fine and costs are paid, or secured to be paid, or he is otherwise legally discharged," may be released at any time by payment of such fine or giving security therefor. Such fine should be secured by a bond, as a note would not be security therefor.

COLUMBUS, OHIO, October 9, 1923.

HON. GEORGE D. DUGAN, *Prosecuting Attorney, Cambridge, Ohio.*

DEAR SIR:—In your communication of September 17th you make the following inquiry: