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VILLAGE CLERK—VACANCY IN OFFICE—FILLED BY MAYOR.

SYLLABUS:

A vacancy caused by the death of a village clerk may be filled by the mayor of the village by virtue of Section 4252, General Code.

COLUMBUS, OHIO, March 1, 1929.

HON. SCOTT GRAVES, *Prosecuting Attorney, Port Clinton, Ohio.*

DEAR SIR:—I am in receipt of your letter of February 19, 1929, which is as follows:

“What person or body of persons has power to appoint a village clerk to fill a vacancy caused by the death of the duly elected and qualified village clerk?”

In answer to your inquiry, I direct your attention to Section 4252 of the General Code of Ohio, which is as follows:

“In case of death, resignation, removal or disability of any officer or director in any department of any municipal corporation, unless otherwise provided by law, the mayor thereof shall fill the vacancy by appointment, and such appointment shall continue for the unexpired term and until a successor is duly appointed, or duly elected and qualified, or until such disability is removed.”

This section was enacted in 1913, found in 103 Ohio Laws, p. 65. It amended the original Section 4252 of the General Code by inserting the words “of any municipal corporation” instead of the words “of a city.” It is apparent that while Section 4252, as amended, is included in Title 12, Division 5, Subdivision 2, Chapter 2, under the subhead of “Cities,” the Legislature intended that this section should also authorize the mayor of a village to fill a vacancy caused by death, resignation, removal or disability of any officer, unless otherwise provided by law. It will be noted that the authorization for filling a vacancy by the mayor under Section 4252, General Code, is further limited by the provision “unless otherwise provided by law.” An examination of the statutes to date does not disclose any other provision.

My predecessor, Hon. Joseph McGhee, rendered an opinion covering this question, reported in Opinions of the Attorney General for 1918, Vol. II, p. 1398, which is in part as follows:

“True, Section 4252, G. C., is found in Tit. XII, Div. 5, Subdiv. 2, Ch. 2, and under the heading ‘Mayor,’ subheading ‘Cities,’ but as the provision already cared for vacancies arising in cities, there can be no question but that the amendment broadening the section to include vacancies ‘of any municipal corporation’ was intended to cure the omission in the statute, and so provided for the filling of vacancies by the mayor in villages in the same manner as in cities.”

Specifically answering your inquiry, I am of the opinion that the mayor of a village is authorized to appoint a village clerk to fill a vacancy caused by the death of the duly elected and qualified village clerk.

Respectfully,
GILBERT BETTMAN,
Attorney General.