In your first question you mention regrading and the placing of additional gravel or cinders on streets and roadways. From this statement, I am assuming that you are referring to a regrading which is for the purpose of placing the roadbed in proper condition to receive the cinders or gravel which are to be placed thereon. If the regrading contemplated changes the present road or street to the extent that the placing of gravel or cinders thereon would constitute a new improvement, then, of course, the municipality's share of the motor vehicle license tax and the gasoline excise tax fund cannot be used for such purpose. It is quite clear that the Legislature has intended the use of such funds for the purpose of keeping up and maintaining streets and highways in municipalities and not for the purpose of paying for an entire new improvement.

With the qualification above noted, it is my opinion that a municipality may expend its share of the motor vehicle license tax and the gasoline excise tax fund for the purpose of placing gravel or cinders on streets or roadways which have previously been graded or improved by the placing of gravel or cinders thereon.

In your communication you refer to and quote the syllabus of Opinion No. 2748, found in Opinions of the Attorney General, 1921, Vol. II, page 1180. I agree with the conclusions therein reached. In that opinion the question was raised as to whether or not the funds received from the motor vehicle license tax might be used for the purpose of oiling streets. In other words, was the oiling of streets "maintenance and repair" within the meaning of Section 6309, General Code.

Therefore, answering your second question specifically it is my opinion that the funds received by a municipality from the motor vehicle license tax and the gasoline excise tax fund may be used for the purpose of oiling streets and roadways which have been improved with gravel or cinders.

Respectfully,
EDWARD C. TURNER,
Attorney General.

1786.

HIGHWAYS—ESTABLISHMENT, RELOCATION AND ABANDONMENT OF STATE HIGHWAYS—SECTION 1189, GENERAL CODE, CONSTRUED.

SYLLABUS:

Construing certain provisions of Section 1189, *General Code.*

COLUMBUS, OHIO, February 29, 1928.

HON. GEORGE F. SCHLESINGER, *Director, Department of Highways, Columbus, Ohio.*

DEAR SIR:—Receipt is acknowledged of your communication of recent date requesting my opinion, as follows:

> "In taking up certain matters relating to establishing additional state highways or changing or abandoning existing state highways I find some language in Section 17 of House Bill No. 67, passed by the last General Assembly and designated as Section 1189, General Code, so phrased as to leave me uncertain as to the proper procedure which should be followed. It will be necessary for me to proceed under this section very shortly and in order that my proceedings may be regular and that the intent of the section in

question may be fully carried out by me I deem it proper to obtain your opinion as to the proper procedure to be followed. The portion of the section that is pertinent to my inquiry reads as follows:

'The director shall likewise, at least ten days before the date set for said hearing, cause a copy of such notice to be mailed to the owners of each piece of property to be assessed whose address is known; notice to corporations shall be mailed to any officer or agent upon whom service of summons could be made as provided in Sections 10238, 10241, 10243 and 10244 of the General Code. The director or a deputy designated by him shall attend such hearing and hear any proof offered on such matter. Any changes made in existing highways or roads by the director or any additional highways or roads established by him following such hearing, shall be certified to the commissioners of the counties interested therein, and a report of such change or addition filed in the office of the director, and the report of the director making such change or establishing such road shall be placed on file in the office of the department. Appeal may be taken from the findings establishing such highways or roads to the court of common pleas in the county or counties where same are situated.

In no event shall the total mileage of the state highway system be increased under any of the above provisions to exceed two hundred miles in one year.

The director, upon petition of the county commissioners of the counties traversed thereby or upon petition of citizens of such counties is authorized to officially assign to a road of the state highway system a distinctive name commemorative of an historical event or personage, or to officially assign thereto a commonly accepted and appropriate name by which such road is known. The director shall be authorized, upon giving notice and holding a hearing as hereinbefore provided to abandon a highway of the state highway system or part thereof which he may determine is of minor importance, or which traverses territory adequately served by another state highway, which abandoned highway shall revert to its former status as a county or township road. A report covering such action of the director shall be filed in the office of the director, and the director shall certify his action to the commissioners of the county or counties in which such highway or portion thereof so abandoned is situated.'

The first of a series of difficulties occurs in connection with the first sentence above quoted. I assume that the phrase 'whose address is known' used in this sentence should be read 'whose address is known to the director of highways.' Please advise whether I am correct in this assumption. I will not ordinarily have any knowledge whatever as to the addresses of owners of property, whose property is involved in or affected by one of these proceedings. If I were required to mail notices only to owners whose addresses I might personally know, it would ordinarily result that I would not be required to mail any notices whatever. I therefore request you to advise me whether I should make or cause to be made an investigation as to the addresses of owners of affected property, which addresses may be to me personally unknown. If an investigation is called for, what should be the nature and extent of such investigation?

Should the notices required by this section to be mailed to owners be sent by registered mail or what, if any, other precautions should be taken by me in mailing such notices other than to deposit the same in the Columbus postoffice with first class postage prepaid thereon.

The next difficulty occurs in connection with the expression in this same sentence which reads 'each piece of property to be assessed.' If this expression is to be taken literally it will not be necessary in any event to mail any notices for the reason that the mere establishment or change or abandonment of a state highway does not involve any special assessments upon any owners. I shall later refer to this matter in connection with abandonment; but so far as establishment or change are concerned it is sufficient to observe that no special assessments of any kind or description are made on the owners of real estate as a direct result of the establishment of a new state highway or a change in route of an existing state highway. It is only in event such new or changed state highway is thereafter constructed in a separate proceeding that special assessments are required to be made, this matter being covered by Section 34 of the same act, Section 1214, General Code. You will note by reference to said Section 34 of the act that this section sets up a method of giving notices and holding hearings with respect to assessments which is in many ways similar to the one now under discussion. In view of the sweeping provisions of Section 34 with respect to notices, and in view of the difficulty of determining what owners would be entitled to notice under Section 17, I do not regard it as foolish to inquire in the first instance whether any notice at all other than the notice by publication need be given under Section 17. I, therefore, make that inquiry.

Should you advise that some method of mailing notices must be worked out under Section 17, I must then determine what property owners are entitled to such notices, assuming that I know their addresses or assuming that I am able to ascertain their addresses by means of such investigation as you may determine I am required to make. Section 34 provides that where a state highway is constructed, assessments must be made on the property within a half mile or within one mile of either side of the improvement. When I establish a new state highway or change the location of an existing state highway I cannot officially determine whether or not the same will ever be 'constructed.' Furthermore, I cannot at that time determine whether assessments will be made on the area within one mile or on the area within one-half mile of either side of the improvement. It is quite possible and indeed probable that if I should establish a new state highway, the construction of the same would not even be initiated until some other director is responsible for the Department of Highways. I, of course, could not by premature present action control his discretion as to the assessment area to be adopted. Furthermore, Section 20 of the act, Section 1202, General Code, provides for straightening, realigning or relocating processes, which are very necessary and common, but which from the very nature of things cannot even be attempted when a new state highway is established, and which processes must await the time when such state highway is constructed or reconstructed or the nature of the improvement thereon otherwise radically changed. The point I am trying to make is that in establishing a new state highway it is practically impossible to determine just where the same will be actually located in case it should later be improved with durable or pretentious construction. This is particularly true in the more rugged parts of the state and also in the vicinity of the larger centers of population where traffic conditions are constantly changing.

I have tried in the above statement to point out my difficulties and possibly should now repeat my original query on this particular proposition together with my related questions. Am I required by Section 17 of House Bill No. 67 to give any notice at all to owners by mail and if so just what interpretation is to be given to the phrase 'owners of each piece of property

to be assessed' and how am I to determine what owners fall within this classification, in view of the facts that mere establishment or change involve no special assessments; that in such proceedings no assessment area is fixed and that it will very often be impossible to determine at the time a road is established or changed just where the final improvement will be placed or what property will fall within any given distance on either side thereof?

You will note in the above quotation a provision that appeal may be taken from my findings to the court of common pleas in the county or counties where the affected road is located. I assume that pending the determination of whether there will or will not be an appeal and during such time as the same might be taken, it would be improper for me to actually take over the control and maintenance of any affected road and expend state funds thereon. Will you kindly advise me whether I am correct in this assumption and if so also advise me how long I must wait or, in other words, how much time interested persons have for taking an appeal. Also what persons are entitled to take an appeal, on what grounds an appeal may be taken, and what notice I will receive or am entitled to receive of such appeal.

You will also note that the provision above quoted and relating to abandonment contains by reference the above described provisions with respect to notice by mail. In other words, the provision relating to abandonment contains the phrase 'upon giving notice and holding a hearing as hereinbefore provided.' Of course, a valid order by the Department of Highways abandoning a road as a state highway means that there will never be any special assessments levied for the construction of such a road as a state highway. If you should determine that some form of notice by mail is required in cases of establishment and change, and should therefore advise me as to the proper answer to my other questions relating to such notice, I would then further inquire whether these provisions as to notice by mail apply in cases of abandonment and request a rule by which I can determine the identity of the owners entitled to such notice."

You request my interpretation and construction of certain provisions of Section 1189 of the General Code, which section was enacted by the last General Assembly in House Bill No. 67 (112 O. L. 437) commonly known as the Norton-Edwards Bill.

It will be observed that in your communication you quote from that portion of Section 1189 of the General Code which you deem pertinent to your inquiry. It is believed that it is necessary to consider further provisions of said section in order to properly interpret and construe the provisions thereof in order properly to answer your question.

Said section provides in part as follows:

"The inter-county highways and main market roads heretofore established by law shall, after the taking effect of this act, be known as state highways, and the system of inter-county highways and main market roads heretofore established by law shall, after the taking effect of this act, be known as the state highway system.

In addition to the inter-county highways and main market roads heretofore established under authority of law, the director shall have authority to designate additional highways or roads, or change existing highways or roads comprising the state highway system after notice and hearings as hereinafter provided.

Before establishing any additional roads or highways as part of the state highway system, or making any changes in existing highways or roads

comprising the state highway system, the director shall give notice by publication in one newspaper of general circulation in each of the counties in which the proposed road or highway to be established is located or in which it is proposed to make such changes, once each week for two successive weeks. Such notice shall state the time and place of hearing, which hearing shall be held in the county, or one of the counties, in which said proposed road or some part thereof is situated, or in which it is proposed to make such changes, and which hearing shall be open to the public, and which notice shall further state the route of the proposed highway or road or the change proposed to be made in an existing highway or road of the state highway system. The director shall likewise, at least ten days before the date set for said hearing, cause a copy of such notice to be mailed to the owners of each piece of property to be assessed whose address is known; notice to corporations shall be mailed to any officer or agent upon whom service of summons could be made as provided in Sections 10238, 10241, 10243 and 10244 of the General Code. The director or a deputy designated by him shall attend such hearing and hear any proof offered on such matter. Any changes made in existing highways or roads by the director or any additional highways or roads established by him following such hearing, shall be certified to the commissioners of the counties interested therein, and a report of such change or addition filed in the office of the director, and the report of the director making such change or establishing such road shall be placed on file in the office of the department. Appeal may be taken from the findings establishing such highways or roads to the court of common pleas in the county or counties where same are situated.

In no event shall the total mileage of the state highway system be increased under any of the above provisions to exceed two hundred miles in one year.

The director, upon petition of the county commissioners of the counties traversed thereby or upon petition of citizens of such counties, is authorized to officially assign to a road of the state highway system a distinctive name commemorative of an historical event or personage, or to officially assign thereto a commonly accepted and appropriate name by which such road is known. The director shall be authorized, upon giving notice and holding a hearing as hereinbefore provided, to abandon a highway of the state highway system or part thereof which he may determine is of minor importance, or which traverses territory adequately served by another state highway, which abandoned highway shall revert to its former status as a county or township road. A report covering such action of the director shall be filed in the office of the director, and the director shall certify his action to the commissioners of the county or counties in which such highway or portion thereof so abandoned is situated. * * *"

You will note by the language of said section that the designation of roads in addition to the inter-county highways and main market roads theretofore established by law or changing existing highways comprising the state highway system can only be accomplished by the Director of Highways "after notice and hearing as hereinafter provided."

The Director of Highways is required by the terms of said section to publish notice of a proposed establishment of an additional road as a part of the state highway system or the changing of an existing road of said state highway system, to publish notice stating the time and place of conducting a hearing thereon in a newspaper

of general circulation in each of the counties in which it is proposed to establsh a new road or change an existing one, once each week for two successive weeks.

The notice referred to in your first inquiry, which is to be sent by the Director of Highways at least ten days before the date set for said hearing, "to the owners of each piece of property to be assessed whose address is known," clearly refers to a copy of the notice published in a newspaper of general circulation in the county or counties where such proposed establishment or change is to be made.

By the requiring of both the publication and mailing of such notice the Legislature has clearly indicated its intention that all persons who may be interested in or affected by such an establishment of a new road, or a change in the existing one, be notified of such proposed action on the part of the Director of Highways in order that such persons may raise any objections they may have to such proceeding, and, further, that the Director in coming to a decision in such matter may be guided thereby.

Though discretion is vested in the Department of Highways as to whether he will establish a new road or change an existing one, after a hearing thereon has been conducted an appeal may be taken from his decision to the Common Pleas Court.

The meaning of the phrase "whose address is known" must be considered in the light of what the Legislature intended by providing for the notice of his proposed action and the time and place of holding a hearing thereon, as provided in Section 1189 of the General Code.

As stated in 26 Cyc. 1102:

> "By the construction of a statute is meant the process of ascertaining its true meaning and application. For this purpose resort may be had not only to the language and arrangement of the statute but also to the intention of the Legislature, the object to be secured, and to such extrinsic matters as the circumstances attending its passage, the sense in which it was understood by contemporaries, and its relation to other laws."

As stated before, the object and purpose of the publishing of a notice and mailing a copy thereof to owners of property which may be involved in or affected by either a proceeding to establish a new road or change an existing road is to permit them to be present at the hearing and make whatever objections they may have to such an improvement.

It is to be presumed that the Legislature realized that it would not be possible for the Director of Highways to personally know the addresses of property owners affected by such a proceeding. Therefore, to give proper effect to the provisions relating to the mailing of notices, it will require the exercise of diligence on the part of the Director or his assistants to ascertain whenever possible the addresses of persons affected by such a proceeding.

The grand duplicate in the County Auditor's office affords the best means of ascertaining the names of the owners of the real estate. In many counties maps are to be found in the Auditor's office which also give the names of the respective owners. The records of other county offices may also be examined and especially where there is an estate in the course of administration, the records of the Probate Court should be examined for the purpose of ascertaining the heirs or devisees who may be affected by said improvement. As to the addresses, various means may be adopted to ascertain them. Inquiries can be made at the premises or in the neighborhood. In general, you will have to follow the same methods in this regard as do other officials in serving similar notices.

You next inquire whether the notice required to be mailed to property owners should be sent by registered mail.

It may be assumed that if the Legislature had intended to require such notices to be sent by registered mail it would have so stated. There being no requirement to send such notices by registered mail, it is my opinion that mailing the same in the same manner as ordinary letters, with the postage thereon required for first-class mail, will be sufficient.

If such notices are sent to the wrong address or are unclaimed, the same will be returned by the post office authorities to you.

In order to have a record of the parties to whom such notices are sent and the date of sending the same, you should keep a list of such parties and the date such notices are forwarded. In the event such notices are not returned because of a wrong address or some other reason, and you have kept a record of the names of the persons to whom they are sent and the date of mailing the same, it will be very hard for such persons, or any of them, to question the receipt of the notices required by Section 1189, General Code.

In the enactment of Section 1189, General Code, the Legislature has used the phrase "each piece of property to be assessed," notwithstanding the fact that in many instances, where a new road is being established or an existing highway is being changed, no other proceedings with relation to said road are immediately contemplated, so that there is no then pending assessment proceeding. At the same time the Legislature evidently had in mind that there would exist a class of property owners who would be entitled to notice and we are not at liberty to disregard the phrase "to be assessed," but must consider it in the light of the other provisions of the statutes relative to assessment proceedings on inter-county highways and main market roads. As you suggest in your letter, Section 1214 of the Code provides the method of assessing adjacent property in connection with the improvement of portions of the highway system. So far as pertinent, that section is as follows:

> "Not less than five per cent nor more than ten per cent of the cost and expense of constructing a state highway, excepting therefrom the cost and expense of bridges and culverts, shall be a charge upon the property within one-half mile or within one mile of each side of the improvement, provided the total amount assessed against any owner of property shall not exceed twenty per cent of the current tax valuation of the property to be specially assessed. Within the limitations above prescribed, the rate of assessment and the area to be assessed on each improvement shall be determined by the director. Provided, further, upon the filing with the director of a consent in writing therefor signed by at least sixty per cent of the land and lot owners, resident of the county, who are to be specially assessed for such improvement, the director may increase the per cent of the cost and expense of the improvement to be specially assessed in accordance with such consent in writing, but in no event shall the amount assessed against any owner exceed the benefits. * * * "

It is further important to consider that, in the improvement of a state highway and the assessment of a portion of the cost thereof, pursuant to Section 1214 of the Code, the property owner to be assessed is given no opportunity to express his opinion as to the advisability of the improvement. The only hearing to which he is entitled is as to the amount of the assessment. Consequently, the only time when a property owner may object to his property becoming potentially assessable is at the hearing provided in Section 1189, General Code, supra, when the question of whether or not the particular highway in question shall become a part of the state highway system is before the director for consideration. Once the highway becomes a part of the state system, all property within one mile thereof must be considered as being subject

to assessment in the future. This assessment may, of course, never be levied, since the director may adopt the one-half mile and so eliminate the property between the one-half mile limit and the one mile limit from assessment. The fact still remains that as soon as the road becomes a part of the highway system, all property within one mile thereof may be assessed for its improvement.

In view of the foregoing, I have no difficulty in reaching the conclusion that the property owners who are entitled to the notice provided for in Section 1189 of the Code are all those whose property lies within one mile of the road in question. The Legislature, when it enacted this section, undoubtedly realized that proceedings for the improvement thereof would not necessarily be coincident with the establishment of the road and hence, in using the phrase "to be assessed," the intent was to include all who might by reason of the establishment of the road as a part of the state highway system be in the future subject to assessment.

You are accordingly advised that it is your duty, prior to the hearing upon the establishment of an additional highway or road as a part of the state highway system, or upon any change in existing highways or roads in the state highway system, to mail a notice of such hearing at least ten days before the date thereof to the owners of each piece of property located within one mile of such proposed part of the highway system, provided that such addresses can be ascertained by the use of due diligence.

In the instance where the improvement of the road is proposed as coincident with its establishment as a part of the highway system, the matter of determining the names and addresses of the property owners to whom notice should be sent will be simplified for the reason that such names and addresses may be obtained from the resident district deputy director or other engineer who has provided the tentative assessment. Your task may be more difficult in a case where no present improvement is contemplated, but it would still be your duty, by reason of the provisions of Section 1189, supra, to use reasonable diligence to determine the names and addresses of all persons entitled to the notices aforesaid.

You call my attention to the difficulty which you may encounter in determining the exact location of the highway at the time of the establishment thereof as a part of the state highway system. You suggest the necessity in many instances of straightening, realigning or relocating at some subsequent time when permanent improvement is made. I realize the difficulty which is presented but suggest that, in the establishment of a road as a part of the state highway system, it must of necessity have a definite line existing at the time of the establishment. Your measurements for the determination of those persons entitled to notice of hearing on such establishment should be made from the line of the road as it exists at the time of establishment, without regard to any future changes of location. This would be the only definite line established at the time of the proposed hearing and consequently I am of the opinion that notice given to the owners within one mile of that line would be in compliance with the provisions of Section 1189 of the Code, irrespective of any future changes in the road at the time of its possible subsequent permanent improvement.

Section 1189, supra, as pointed out by you, provides for an appeal to be taken to the common pleas court from your finding establishing such highways or roads and no time limit is provided for the effecting of such an appeal.

In the absence of the fixing of any time limit in which such an appeal may be taken, the provisions of the general statutes, if any there be, apply. I find no general provisions which might apply to the statute in question. Section 6890 of the General Code provides for an appeal from the order of the county commissioners in establishing or changing roads, but nothing in the provisions thereof makes said statute applicable to Section 1189 of the General Code. It is most unfortunate that the

Legislature failed to make provision for the time and the manner in which such an appeal must be effected. The question arises whether the Legislature, by failing to define the procedure after providing for an appeal, has made such statute so defective as to render the same invalid.

It is stated in 36 Cyc, 971, among other things, that:

"However a violation of constitutional restraints and prohibitions is the only permissible ground for calling upon the courts to determine the validity of a statute, and the unwisdom, impracticableness, unreasonableness, or injustice of the enactment furnishes no ground for interposition."

That statutes similar to Section 1189, supra, are remedial in nature rather than penal and therefore should be broadly construed, is well settled.

The first branch of the syllabus of the case of *The County of Miami et al.* vs. *The City of Dayton, et al., The State ex rel. Duncan* vs. *Franklin County Conservancy District,* 92 O. S. 215, reads as follows:

"A statute that provides * * * a method of review is remedial in its nature and should be broadly and liberally construed to accomplish the purposes of its enactment."

The syllabus of the case of *Rutledge* vs. *The State Medical Board,* 106 O. S. 544, reads:

"1. Section 1276, General Code, grants the right of appeal from certain orders of the state medical board, but does not define the procedure for perfecting such an appeal. The right to appeal thus conferred is a substantial right which does not fail because of the failure to provide the mode of perfecting it.

2. Where a party desires to appeal and files in the court of common pleas of the county of his residence a petition alleging his grievance against the board and demanding a certification of the papers and records to that court, it is error to dismiss his proceeding without a hearing upon the claim so appealed."

In the course of the opinion on pages 547 and 548, Chief Justice Marshall, who rendered the opinion, says:

"Inasmuch as the statute makes no provision for the formalities, and inasmuch as it is quite clear that it was intended to grant the right of appeal, the court should not resort to technicalities, or place difficulties or stumbling blocks in the way of a person desiring to appeal any such case, but it should be held, on the contrary, that any notice to the medical board of his desire to appeal or call upon that board for a certification of the papers and records to the court of common pleas, indicating his purpose to appeal from the action of the medical board and his desire to have his case heard upon appeal in the court of common pleas, should be sufficient to invoke the action of that court."

It is important to note that Section 1276 of the General Code, which was under consideration by the Supreme Court in the Rutledge case, did not have a provision relating to the time within which an appeal should be effected.

Since no definite time limit is fixed under the provisions of Section 1189, supra,

in which an appeal must be effected, it would seem that the same must be filed within a reasonable time.

It is my opinion that you are correct in your assumption that from the date of entering your final order, determining to establish a new road or change an existing one, you should wait a reasonable time before expending state funds upon the maintenance of any such road. After you have waited for a matter of two or three weeks from the date of entering your final order, if no appeal has been effected you may take over such road, and the remedy, if any, of any person objecting to your action will be by injunction or such person or persons may thereon file an appeal. A judicial determination of what may be a reasonable time within which to effect an appeal is then possible.

The answer to your question as to what persons are entitled to take an appeal is found in the case of *Board of Commissioners of Crawford County et al.* vs. *Gibson, et al.*, 110 O. S. 290, the first two branches of the syllabus being:

> "1. Under Section 6891, General Code, an appeal lies from the final order of the county commissioners vacating a county road or any part thereof.
>
> 2. Any freeholder of the county residing in the vicinity of the improvement is a party interested in the granting or refusing of such improvement, and may appeal therefrom."

As stated in said case, any freeholder of the county residing in the vicinity of the improvement is a party interested in the granting or refusing of such improvement, and may appeal therefrom.

Relative to the grounds on which an appeal may be taken, Section 1189, supra, is not specific, said section providing merely that:

> "Appeal may be taken from the findings establishing such highways or roads to the court of common pleas in the county or counties where same are situated."

Thus it will be impossible to lay down any specific grounds upon which such an appeal may be taken, it being a question of fact whether the person affected by the improvement has just complaint.

It will not be a matter of great difficulty to have your resident district deputy directors obtain copies of any appeals that may be filed and keep in touch with you in reference to the same upon receiving such instructions from you, even though there is no provision requiring notice of the filing of such appeals to be forwarded to you.

Coming now to a consideration of your last question, you are advised that the same requirement as to the mailing of a notice for the proceedings to abandon a road exists under the provisions of Section 1189, supra, as is required to establish or change a highway.

Although it is quite true, as stated by you, that the effect of an order abandoning a road on the state highway system means that assessments will not be made on property owners living near such abandoned road for the improvement of the same, yet such property owners may have certain long established rights of ingress and egress to such road which may be seriously affected and who most certainly are entitled to notice of such proceedings as the statute clearly contemplates.

While undoubtedly the reason for giving notice in the instance of abandonment is not as strong as in other cases, yet the requirement of the statute is mandatory. The same reasonable diligence must, therefore, be exercised to determine the identity of

the property owners as I have indicated to be necessary in the case of the establishment of a new or the changing of an existing road.

In stating my conclusions as aforesaid, I agree with you that Section 1189, supra, is in many ways defective, especially in not making more specific provision as to the persons to whom notice should be mailed and providing the time in which an appeal should be effected and the procedure for such an appeal.

As we learn the defects of this law from experience, these matters should be properly presented to the next Legislature for correction.

Respectfully,
EDWARD C. TURNER,
Attorney General.

1787.

APPROVAL, 6 GAME REFUGE LEASES.

COLUMBUS, OHIO, February 29, 1928.

Department of Agriculture, Division of Fish and Game, Columbus, Ohio.

GENTLEMEN:—I have your letter of recent date in which you enclose the following Game Refuge Leases, in duplicate, for my approval:

No.	*Name*	*Acres*
1079	Robert C. M. Lewis, Marion County, Marion Township	121
1080	Leonard B. Hopkins, Marion County, Pleasant Township	223
1081	Samuel E. Hopkins, Marion County, Pleasant Township	100
1082	John Gounflo, Marion County, Pleasant Township	84
1083	N. E. Barnhart, Marion County, Pleasant Township	117
1084	John Dunbar, Marion County, Pleasant Township	50

I have examined said leases, find them correct as to form, and I am therefore returning the same with my approval endorsed thereon.

Respectfully,
EDWARD C. TURNER,
Attorney General.

1788.

CIVIL SERVICE—EMPLOYE REMOVED AND UPON REVIEW REINSTATED—ENTITLED TO SALARY DURING REMOVAL PERIOD.

SYLLABUS:

An officer, employe or subordinate in the classified service of the state, who is removed from his position by his appointing authority for cause or causes enumerated in Section 486-17a, *General Code, and who, as therein provided, appeals to the Civil Service Commission, which, upon hearing, disaffirms the judgment of the appointing authority and reinstates such officer, employe or subordinate to the position from which he*