

official reports, acts and communications of the office, and perform such other services as may be required by the coroner. For the performance of such duties such appointee shall receive a monthly salary of one hundred and fifty dollars, payable from the general county fund upon the warrant of the county auditor to be issued upon presentation by voucher duly certified by the coroner. \* \* \*

It is apparent from a reading of this section that no authority is given therein authorizing the coroner of a county having a population, according to the last federal census, of less than 100,000, to appoint a stenographer-secretary. Section 2856 of the General Code, which has been in force in substantially its present form since an act passed March 14, 1902, as found in 95 O. L. 56, in substance provides that the testimony of witnesses subpoenaed by the coroner at an inquest shall be reduced to writing, and by them respectively subscribed except when stenographically reported by the official stenographer of the coroner.

Inasmuch as section 2856-2 of the General Code is a new enactment, the inquiry naturally arises whether there is not some general legislative authority providing generally for an official stenographer. I am unable to find any such authority. The above provision of said section 2856 of the General Code no doubt had reference to official stenographers of the coroner in a few of the larger counties especially provided for, as in section 1209a of the Revised Statutes, found in 95 O. L. 56.

To give legal and official standing to a stenographer-secretary, there would of necessity need be some legislative enactment therefor. The mere fact that there would be no expense to the county therefor would not do so.

In conclusion, it follows that a stenographer-secretary may not be legally appointed in a county having a population according to the last federal census of less than 100,000, even though in the appointment of such stenographer-secretary and the maintenance of the office there is no expense whatever to the county.

Respectfully,

C. C. CRABBE,

*Attorney General.*

199.

CORPORATION—UNDER SECTION 3704 G. C. WHEN SALE OF PROPERTY PRODUCES SUM IN EXCESS OF BONDS OUTSTANDING, EXCESS MAY BE DEPOSITED IN GENERAL FUND OF CORPORATION.

*SYLLABUS:*

*Under the provisions of section 3704 G. C., if the sale of property acquired by an issue of bonds produces a sum of money in excess of such bonds outstanding, unpaid or unprovided for, such excess above that necessary to meet the needs of the sinking fund may be deposited in the general fund of such corporation.*

COLUMBUS, OHIO, March 29, 1923.

*Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.*

GENTLEMEN:—Yours of recent date received, in which you submit the following statement and inquiry:

“Section 3704 G. C. provides as follows:

‘Money arising from the sale or lease of real estate, or a public building, or from the sale of personal property, belonging to the corporation, shall be deposited in the treasury in the particular fund by which such property

was acquired, or is maintained, and if there be no such fund it shall be deposited in the general fund. If the property was acquired by an issue of bonds the whole or a part of which issue is still outstanding, unpaid and unprovided for, such money, after deducting therefrom the cost of maintenance and administration of the property, shall on warrant of the city auditor be transferred to the trustees of the sinking fund to be applied in the payment of the principal of the bond issue.'

"Instances have come to the attention of this department and requests for advice, when the sale of property produces a sum of money in excess of bonds outstanding, unpaid and unprovided for and the interest thereon.

"*QUESTION*: Under such conditions would it be legal to limit the amount of such transfer to the trustees of the sinking fund to an amount necessary to provide for all outstanding bonds and interest and to retain or transfer the balance to the general fund of the corporation?"

The latter part of the section quoted in your inquiry indicates that if the premises sold was acquired by a bond issue, *the whole or part of which* is still outstanding, the money arising from such sale shall be transferred to the sinking fund to be applied in the payment of the principal of the bond issue.

The use of the words "whole or part of the issue of bonds" would indicate that the legislature recognized the probability that in some instances (as where the issue of bonds are nearly paid) the sum required for the needs of the sinking fund would be small and would not consume the entire sum arising from such sale; however, the section is not clear as to the disposition of the surplus above the needs of the sinking fund.

The first part of the section provides that the money arising from such sale shall be deposited first in the particular fund by which such property was acquired or is maintained, and if there be no such fund, it shall be deposited in the general fund. Your question seems to eliminate the possibility of depositing the money arising from such sale in the "fund by which such property was acquired, or is maintained." Therefore, it would seem the excess over the requirements of the sinking fund should go to the general fund.

Any excess realized would be in the nature of a profit or savings and it is not believed any violence would result from paying same into the general fund. I find no other section of the General Code which would be violated.

Therefore you are advised that under the conditions you state it would be legal to limit the amount of such transfer to the trustees of the sinking fund to an amount necessary to provide for all outstanding bonds and interest, and to retain or transfer the balance to the general fund of the corporation.

Respectfully,

C. C. CRABBE,  
*Attorney General.*

200.

BOARD OF HEALTH—OFFICES INCOMPATIBLE—COUNTY COMMISSIONER—MEMBER DISTRICT BOARD OF HEALTH—REMOVAL FROM ONE SUBDIVISION OF DISTRICT TO ANOTHER OF SAME DISTRICT DOES NOT DISQUALIFY MEMBER FROM HOLDING OFFICE—IT IS MANDATORY THAT ONE MEMBER OF BOARD BE A PHYSICIAN.

*SYLLABUS*:

1. *The offices of member of District Board of Health and of County Commissioner are incompatible and cannot be held by the same person.*