

ture of these funds is necessarily subject to audit by the village clerk under the provisions of Section 4284 of the Code. I therefore feel that by reason of this duty the two positions are incompatible and that a village clerk may not be appointed a citizen member of the planning commission. In the case of the building inspector, however, I scarcely believe that it can be said that it would be impossible for him to perform the duties pertaining to membership on the planning commission as well. Likewise, I do not find there is any conflict between the offices or that one is a check upon the other, which would come within the other rule of incompatibility which I have applied in the case of the village clerk. The nature of the work of the building inspector is along similar lines to that of the planning commission. In the interest of efficient government the planning commission and the building inspector should work in harmony and I feel that to have the building inspector upon the planning commission would tend toward the promotion of harmony rather than otherwise. I have, therefore, reached the conclusion that the two positions are not incompatible.

So far as the building inspector is concerned, there is, therefore, only remaining the arguments which I advanced in the first part of this opinion to the effect that there is an implication that three members of the commission shall be private citizens. As opposed to this argument, however, is the general rule that any person having the qualifications for the office is entitled thereto, unless the statute has, in effect, prohibited that employment or by the common law rules of incompatibility he cannot properly function. This right is not to be disregarded lightly and I therefore feel that I cannot by what is, after all, a mere inference in the language of the statute, deny the right of the building inspector to the appointment in question.

I am, therefore, of the opinion that a village clerk may not be appointed as a citizen member of a village planning commission but that the building inspector of such village is eligible to such appointment.

Respectfully,
EDWARD C. TURNER,
Attorney General.

1332.

SINKING FUND TRUSTEES OF A CITY—MAY INVEST SURPLUS FUNDS
IN NOTES ISSUED BY SUCH MUNICIPAL CORPORATION.

SYLLABUS:

The sinking fund trustees of a city or village are authorized by Section 2293-27, General Code, to invest surplus funds in notes issued by such municipal corporation.

COLUMBUS, OHIO, December 6, 1927.

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

GENTLEMEN:—This will acknowledge your recent inquiry as follows:

“Section 4514, G. C., reads:

‘The trustees of the sinking fund shall invest all moneys received by them in bonds of the United States, the State of Ohio, or of any municipal corporation, school, township or county bonds, in such state, and hold in reserve only such sums as may be needed for effecting the terms of this title. All interest received by them shall be re-invested in like manner.’

Section 2293-27, G. C., 112 O. L., page 375, reads:

'Before selling any notes or bonds of the subdivision the taxing authority shall offer the same at par and accrued interest to the trustees or commissioners or other officers who have charge of the sinking fund of the subdivision and such officers shall have the option of purchasing said notes or bonds or rejecting the same.'

QUESTION: May the sinking fund trustees of a city or village invest surplus funds in notes issued by the corporation?"

The authority conferred by Section 2293-27, General Code, upon the officials in charge of the sinking funds of political subdivisions to purchase notes of their subdivisions, in addition to bonds, is obviously, in my opinion, operative as an extension of the investment powers of such officials to include this form of security. It would be an absurdity to give such officers the option to purchase notes and at the same time to hold that there could be no funds available for such purpose.

I am therefore of the opinion that the provisions of Section 2293-27 of the General Code, granting the option to officials in charge of sinking funds of subdivisions to purchase notes of such subdivisions, extends the limitation upon the investments of the trustees of the sinking fund of a city or village to include the notes of such city or village. Section 2293-27 is the later enactment and, insofar as its terms necessarily conflict with those of Section 4514 of the Code, the later enactment is operative.

Respectfully,
EDWARD C. TURNER,
Attorney General.

1333.

CIVIL SERVICE EMPLOYEE IN STATE INSTITUTION WHO PERSISTENTLY REFUSES TO SETTLE HIS JUST DEBTS MAY BE DISCHARGED FOR FAILURE OF GOOD BEHAVIOR—CIVIL SERVICE COMMISSION MAY REVIEW CASE.

SYLLABUS:

Where an employe in a state institution acting under the knowledge that his wages cannot be garnished persistently refuses to make any effort to settle his just debts, the managing officer of such institution would be justified in finding that such persistent refusal constitutes a failure of good behavior and would be justified in discharging the offender.

If the employe feels that his discharge is unjustified, he is entitled to the benefit of a review of the case by the civil service commission.

COLUMBUS, OHIO, December 6, 1927.

The State Civil Service Commission of Ohio, Columbus, Ohio.

GENTLEMEN:—Acknowledgment is made of the receipt of your recent request for my opinion upon the following: