

2059.

CORONER—TRAVELING FEES—SECTIONS 2856-4 AND 2856-5, GENERAL CODE, DISCUSSED.

SYLLABUS:

In any county, to which Sections 2856-4 and 2856-5, General Code, apply, viz., a county having a population, according to the last federal census, of four hundred thousand or more, the coroner of such county is not entitled to receive for his own use the traveling fees provided for by Section 2866, General Code, for any traveling done by such coroner on and after August 1, 1927, and if any such fees are collected by the coroner of such county on and after said date he is required to pay the same into the county treasury as provided in Section 2856-5, General Code.

COLUMBUS, OHIO, May 4, 1928.

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

GENTLEMEN:—This will acknowledge your letter of recent date which reads:

“You are respectfully requested to furnish this department your written opinion upon the following:

Section 2856-5, G. C., as enacted 112 O. L. 204, provides that in counties having a population according to the last federal census of 400,000 or more, the coroner shall pay over to the county treasurer of said county all fees to which he shall be entitled under all the sections of the General Code forthwith upon receipt of same.

Section 2866, G. C., provides that the coroner shall be allowed certain fees, among which is the following: ‘For traveling, each mile—ten cents.’

Question: Is the ten cents per mile which he is to receive from the county treasury under this section a fee which he is required to pay over to the county treasurer under the provisions of Section 2856-5, G. C., or may the coroner retain this amount to cover his expenses in traveling?”

Section 2866, General Code, provides:

“Coroners shall be allowed the following fees: For view of dead body, three dollars; for drawing all necessary writing, for every one hundred words, ten cents; for traveling each mile, ten cents; when performing the duties of sheriff, the same fees as are allowed to sheriffs for similar services.”

On April 21, 1927, (112 v. 204) the Legislature enacted Sections 2856-4 and 2856-5, General Code, which provide:

Sec. 2856-4. “In counties having a population, according to the last federal census, of four hundred thousand or more, the coroner shall receive a salary of six thousand dollars per annum, payable monthly from the county treasury upon the warrant of the county auditor.”

Sec. 2856-5. “In counties having a population, according to the last federal census, of four hundred thousand or more the coroner shall pay over to the county treasury of said county *all fees*, to which he shall be entitled under *all* sections of the General Code, forthwith upon receipt of same. All coroners

in such counties shall report to the county commissioners on the first Monday in September each year a certified statement of the amount of all fees collected during the same period, naming the party or parties to each case together with a statement of the amount of funds paid by him pursuant to law into the county treasury naming the source from which such funds were derived." (*Italics the writer's.*)

Your attention is directed to Opinion No. 1624 rendered by this office on January 25, 1928, addressed to the Prosecuting Attorney of Cuyahoga County, the first paragraph of the syllabus of which reads:

"1. In any county in which said Sections 2856-4 and 2856-5, General Code, apply, the coroner of such county is not entitled to receive for his own use the autopsy fees provided for by Section 2856-3, General Code, for any autopsies made by him on and after August 1, 1927, and if any such fees are collected by the coroner of such county he is required to pay the same into the county treasury as provided in said Section 2856-5, General Code."

After quoting Sections 2856-4 and 2856-5, *supra*, the following language appears therein:

"It will be noted that by the provisions of these sections of the General Code the compensation of the coroner in counties having a population of 400,000 or more at the last federal census is placed on a salary basis, and the coroner in such counties is required to 'pay over to the county treasury of said county all fees to which he shall be entitled, under all sections of the General Code, forthwith on receipt of same.' Inasmuch as the Legislature has made no exception with respect to the fees required to be paid into the county treasury by the coroner in such counties, but has in unmistakable language expressed its intention that all fees of the coroner of such counties shall be paid into the county treasury, I am quite clearly of the opinion that in any county in which said Sections 2856-4 and 2856-5, General Code, apply, the coroner of such county is not entitled to receive for his own use the autopsy fees provided for by Section 2856-3, General Code, for any autopsies made by him on and after August 1, 1927, and that if any such fees are collected by the coroner of such county he is required to pay the same into the county treasury as provided in said Section 2856-5, General Code."

In view of the foregoing and answering your question specifically, I am of the opinion that in any county, in which Sections 2856-4 and 2856-5, General Code, apply, the coroner of such county is not entitled to receive for his own use the traveling fees provided for by Section 2866, General Code, for any traveling done by such coroner on and after August 1, 1927, and if any such fees are collected by the coroner of such county on and after said date he is required to pay the same into the county treasury as provided in Section 2856-5, General Code.

In this connection your attention is directed to Section 2412-1, General Code, which provides:

"That, whenever the board of county commissioners, deems it necessary to purchase a motor vehicle or vehicles for the use of the sheriff or sanitary engineer, their deputies or necessary employes they shall adopt a resolution setting forth the necessity for such purchase, together with a statement of the

kind and number of vehicles required and the estimated cost of each such vehicle.

Upon the adoption of said resolution the board of county commissioners may purchase said vehicles for the use and purposes of the aforesaid persons or any of them. If the board of county commissioners deem it necessary to purchase a motor vehicle or vehicles for their use or for the use of any department under their direct control, application shall be made by them to a judge of the Court of Common Pleas of said county, who, if upon the hearing thereof finds it necessary and expedient to purchase such vehicle or vehicles shall so order, fixing the number and kind of such vehicles, and the amount to be expended for each."

And to Section 2412-2, General Code, which reads :

"When purchased, such vehicle or vehicles shall be for the use of the county commissioners, or other county officials, such use to be subject to the regulation of the county commissioners. Such vehicles shall be used by each such officials or said deputies and employes in lieu of hiring vehicles, in the manner otherwise provided by law unless the county vehicles are not available for use. When vehicles are so purchased, the county commissioners may purchase such supplies as may be necessary. Any vehicles heretofore acquired and now owned by the county shall be used as herein provided. All such vehicles shall be plainly and conspicuously lettered as the property of the county. No official or employe shall use or permit the use of any such vehicle or any supplies therefor, except in the transaction of public business or work of such county."

As provided by Section 2412-2, supra, such vehicle or vehicles as are purchased by a board of county commissioners under the authority of Section 2412-1, supra, shall be "for the use of the county commissioners or other county officials," such use however, to be subject to the regulation of the county commissioners. There is no doubt but that a county coroner is a county official and as such is entitled to use such vehicles, subject however, to such rules and regulations as the board of county commissioners may promulgate.

Respectfully,
EDWARD C. TURNER,
Attorney General.

2060.

VILLAGE COUNCIL—MEMBER UNAUTHORIZED TO HOLD OTHER OFFICES—NOTARY OF PUBLIC AND MEMBER OF STATE MILITIA EXCEPTIONS.

SYLLABUS:

1. *Under the provisions of Section 486-23, General Code, a person employed in the classified civil service of the state may not legally be a candidate for the office of member of council of a village, nor hold such office by election or appointment.*
2. *Under the provisions of Section 4218, General Code, no member of the council of a village may legally hold any other public office or employment, except that of*