

thousand of the first fifteen thousand of the population of the county, *as shown by the last federal census next preceding his election;* * * * "

Sec. 3003. "Each prosecuting attorney shall receive an annual salary of sixty dollars for each full one thousand of the first fifteen thousand of the population of the county *as shown by the federal census next preceding his election;* * * * "

Obviously, the salaries of these three officials are governed by the census in existence at the time of their election to their offices. Since the 1930 census was effective August 22, 1930, I am of the opinion that their salaries will be based on the 1930 census.

Since receiving your communication, I have been informed by the Secretary of State that he mailed on December 30, 1930, to all county auditors the official county population based upon the 1930 census. Therefore, your county auditor should draw his vouchers for the month of January for the sheriff's, recorder's and prosecuting attorney's salaries on these figures.

It is believed that the foregoing will satisfactorily dispose of all your questions.

Respectfully,
GILBERT BETTMAN,
Attorney General.

2858.

COUNTY INFIRMARY—AUTHORITY TO PURCHASE FOOD AND SUPPLIES VESTED IN SUPERINTENDENT AND MATRON OF SUCH INSTITUTION—SHERIFF HAS SUCH AUTHORITY TO PURCHASE FOR JAIL—COUNTY COMMISSIONERS WITHOUT SUCH AUTHORITY IN EITHER CASE.

SYLLABUS:

The authority to purchase food and supplies for a county infirmary and jail is vested by the provisions of Sections 2526 and 2850 of the General Code in the superintendent and matron of an infirmary and the sheriff, and the county commissioners have no authority to make such purchases through an assistant clerk appointed by them.

COLUMBUS, OHIO, January 23, 1931.

HON. CARL J. CHRISTENSEN, *Prosecuting Attorney, Toledo, Ohio.*

DEAR SIR:—I am in receipt of your letter of recent date in which you request my opinion upon the following inquiry:

"Can the board of county commissioners relieve the superintendent and matron of the county infirmary and the sheriff of the duties of making purchases of food and supplies for the infirmary and jail, and make such purchases through an assistant clerk to said board?"

Section 2526 of the General Code, in so far as it is pertinent to your inquiry, provides as follows:

"The superintendent and matron of the infirmary shall require all persons

received therein to perform such reasonable and moderate labor, without compensation, as is suited to their age and bodily strength. The superintendent and matron shall make such purchases as may be authorized by the rules prescribed by the county commissioners. As far as practicable, all supplies shall be purchased on competitive bids, except those ordered from the state as required by law, and all supplies of whatever kind purchased and delivered to the superintendent, or to the infirmary, shall be accompanied by itemized bills, showing quantities, qualities and price, which shall be checked by the superintendent as having been received, and the correctness of the bill or claim shall be duly certified by him before the same may be allowed by the commissioners."

Section 2850 of the General Code provides in part as follows:

"All food shall be purchased by the sheriff under rules and regulations to be prescribed by the county commissioners. On the fifth day of each month the sheriff shall render to the county commissioners an itemized and accurate account, with all bills attached, showing the actual cost of keeping and feeding prisoners and other persons placed in his charge and the number of meals served to each prisoner or other person during the preceding month."

It is a well established rule of law that county officers being wholly creatures of the law, have only such powers and duties as are expressly given them by statute and such as are naturally and necessarily implied from the language of the statute. This rule of law is so well established that it is unnecessary to cite authorities to support it.

You will note that Section 2526 of the General Code provides that "The superintendent and matron shall make such purchases as may be authorized by the rules prescribed by the county commissioners" and Section 2850 of the General Code provides that "All food shall be purchased by the sheriff under rules and regulations to be prescribed by the county commissioners." It is apparent from a reading of these provisions that while the purchasing of food and supplies for an infirmary and jail is subject to rules and regulations prescribed by county commissioners, nevertheless the actual purchasing of food and supplies for these institutions is vested in the superintendent and matron of an infirmary and the sheriff. The officials upon whom the power of purchasing food and supplies for an infirmary and jail is conferred by statute, have no authority to delegate this power to any one else, for it is fundamental that where a particular public agent or official is charged with the performance of certain duties these duties can not be voluntarily assumed by any other person nor delegated to any other person by him who is charged with the performance of the duties. The county commissioners, by reason of the express language in Section 2526 and 2850 of the General Code, conferring authority upon the superintendent and matron of an infirmary and the sheriff to purchase supplies and food for an infirmary and jail, can not assume these duties, nor have the officials of these institutions any right to delegate these duties to the county commissioners.

I am therefore of the opinion, in specific answer to your inquiry, that the authority to purchase food and supplies for a county infirmary and jail is vested by the provisions of Sections 2526 and 2850 of the General Code in the superintendent and matron of an infirmary and the sheriff, and the county commissioners have no authority to make such purchases through an assistant clerk appointed by them.

Respectfully,

GILBERT BETTMAN,

Attorney General.