

Dow Aiken law (6072 especially) which were repealed." Opinion No. 3004, April 18, 1922.

Since section 6212-33 G. C. is to supplant section 6072 G. C., and the language quoted in your communication from section 6212-33 is identical with that contained in section 6072 prior to its repeal, it must follow that the law as stated in Ohio State 71 at page 459 is still the law of Ohio and that a tax placed under provision of section 6212-33 will be a superior lien on the real estate to a mortgage previously given on said real estate.

Respectfully,

C. C. CRABBE,
Attorney General.

198.

CORONER—NO AUTHORITY TO APPOINT STENOGRAPHER-SECRETARY IN COUNTY HAVING POPULATION OF LESS THAN 100,000.

A stenographer-secretary may not be legally appointed by a coroner 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 expenses whatever to the county.

COLUMBUS, OHIO, March 29, 1923.

HON. S. ANSELM SKELTON, *Prosecuting Attorney, Portsmouth, Ohio.*

DEAR SIR:—You have recently written this department as follows:

"Section 2856-2 of the Ohio General Code as enacted in 109 O. L., page 544, provides in substance that in counties having a population according to the last federal census of 100,000 or more, a coroner may appoint in writing an official stenographer-secretary who shall record the testimony of witnesses in attendance upon the coroner's inquests, etc.

"Scioto county has a population much less than 100,000 and the coroner desires to have appointed for his office a stenographer-secretary who will serve in that capacity free of any charge to the county. The coroner uses this stenographer for his other business matters. The purpose of having such appointment made is to dispatch the business in the holding of coroner's inquests and avoiding the necessity of having the witnesses wait and subscribe their statements as provided in section 2856 of the Ohio General Code.

"Will you give me your opinion as to whether or not a stenographer-secretary may be legally appointed in a county having a population according to the last federal census of less than 100,000, when in the appointment of said stenographer-secretary and the maintenance of the office there is no expense whatever to the county?"

The pertinent part of section 2856-2 of the General Code reads:

"In counties having a population according to the last federal census, of 100,000 or more, the coroner may appoint in writing an official stenographer-secretary who shall record the testimony of witnesses in attendance upon coroner's inquest and preserve and file properly indexed records of all

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