

This section authorizes the council to vest authority to supervise and maintain playgrounds in any existing board or body or a recreation board. This section further authorizes the local authorities to equip, operate and maintain playgrounds, as authorized by this act. They may employ any officers or employes for such purposes as they deem proper. This section further says that "such local authorities" may equip, operate and maintain such playground. This would indicate that by "any existing body or board" mentioned, it was meant any official body or board of the subdivision. Section 4065-5 provides:

"Any two or more cities or villages, or any city or village, or any city or village and county, may jointly acquire property for and operate and maintain any playgrounds, playfields, gymnasiums, public baths, swimming pools, or indoor recreation centers. Any school district shall have power to join with any city, village or county, in equipping, operating and maintaining playgrounds, playfields, gymnasiums, public baths, swimming pools, and indoor recreation centers, and may appropriate money therefor."

This section permits one or more cities or villages, or any city or village and county, to jointly acquire property for, or operate and maintain playgrounds. This section also provides that any school district may join with any city, village or county, in equipping, operating and maintaining playgrounds.

In jointly operating a playground under this provision, it is believed that such operation must be as authorized by this act, that is, it must be under the supervision of the local authorities of the joint subdivision.

Your letter would infer that the supervision and maintenance of the playground in question is placed in the persons who have equipped same at their expense. In view of the provisions of the whole act, it is believed that it would be inconsistent with said act to permit persons over whom the local authorities have no jurisdiction to supervise the operation and to control the expenditure of the funds of the subdivision.

It is therefore my opinion that the city may not pay part of the operating expense of the playground to a group of citizens equipping such place in the form of a donation. It is my opinion also that the city may not pay the salary of a supervisor unless the supervision, operation and maintenance of the playground is under the jurisdiction of the local authorities.

Respectfully,

C. C. CRABBE,

*Attorney General.*

1668.

CORONER—FEES PRESCRIBED BY SECTION 2856-3 G. C. ARE APPLICABLE TO CORONERS OF ALL COUNTIES—WHEN AUTOPSY MAY BE MADE—SECTION 2495 G. C. CONSTRUED.

**SYLLABUS:**

1. *The fees prescribed by section 2856-3 G. C. are applicable to coroners of all counties.*
2. *An autopsy may not legally be made without authorization by the prosecuting attorney of the county wherein a dead body is found.*

3. *A board of county commissioners may, in its discretion, allow a physician or surgeon, duly designated to make and making, a post mortem examination or autopsy under section 2495 G. C., such sum as may be found to be reasonable for the services rendered; and in such case section 2856-3 has no application.*

COLUMBUS, OHIO, August 6, 1924.

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

Gentlemen:—

I am in receipt of your communication as follows:

"You are respectfully requested to furnish this department with your written opinion upon the following questions:

"Section 2856-3 G. C., as amended, 109 O. L., 544, provides a fee for a coroner for his services in the performance of an autopsy under section 2856 G. C. of \$20.00 and for decomposed or infected bodies \$40.00, to be paid from the county treasury in the same manner as other fees of the coroner's office. Section 2856 G. C. provides that the coroner shall make a report from personal observation of the corpse; statements of relatives, of other persons having adequate knowledge of the facts and other sources of information as may be available or by autopsy, if such autopsy is authorized by the prosecuting attorney of the county. Section 2495 G. C. authorizes the county commissioners to allow a physician or surgeon making a post mortem examination at the instance of the coroner or other officer, such compensation as they deem proper.

"*Question 1.* Do the fees of \$20.00 and \$40.00 provided in section 2856-3 G. C. apply only to coroners of counties having a population according to the last federal census of 100,000 or do they apply as well to coroners in counties having a population smaller than 100,000?

"*Question 2.* May a coroner in any county legally make a post mortem examination or autopsy without being authorized to do so by the prosecuting attorney of the county?

"*Question 3.* May a physician or surgeon making a post mortem examination at the request of the coroner or prosecuting attorney be allowed under the provisions of section 2495 G. C. a sum greater than the amounts stated in section 2856-3, General Code?"

Section 2856-3 of the General Code, found in 109 O. L., page 543, provides:

"In counties having a population according to the last federal census of 100,000 or more, no person shall be eligible to the office of coroner except a licensed physician of good standing in his profession. For his services in the performance of an autopsy under section 2856 of the General Code, the coroner shall receive a fee of \$20.00 and for decomposed or infected bodies \$40.00, to be paid from the county treasury in the same manner as other fees of the office."

It will be noted that this section is divided into two sentences. The first sentence provides that no one shall be eligible for the office of coroner in counties of one hundred thousand or more population except a licensed physician. The second sentence provides that "the coroner" shall receive certain fees for performance of autopsies.

Section 2856-2 G. C., a part of the aforesaid act, provides that in counties of one hundred thousand or more population the coroner may appoint an official stenographer. This section also provides that all records of the coroner's office shall be open for inspection. It further provides that in counties where a county morgue is maintained a coroner may appoint an assistant custodian of the morgue. It certainly cannot be said that the right of inspection of records or the authority to maintain a county morgue is restricted to counties having a population of one hundred thousand or more. This leads to the conclusion that the fees allowed by this section apply to all coroners, regardless of the population of the county, and you are so advised. Whether any person other than a licensed physician may perform an autopsy and thus become entitled to the fee, I do not express an opinion.

Section 2856 G. C., found in 109 O. L., page 543, in part provides :

“ \* \* \* A report shall be made from the personal observation of the corpse; statements of relatives, or of other persons having adequate knowledge of the facts, and such other sources of information as may be available or by autopsy if such autopsy is authorized by the prosecuting attorney of the county.”

Section 2856 expressly provides that no autopsy shall be had unless authorized by the prosecuting attorney of the county, meaning the prosecuting attorney of the county wherein the dead body is found, and section 2856-3 limits the fees of the coroners for the performance of such service to the amounts therein prescribed.

Section 2495, General Code, which was not repealed or amended by the foregoing act, provides :

“The county commissioners may allow a physician or surgeon making a post mortem examination at the instance of the coroner or other officer such compensation as they deem proper.”

Whether or not by virtue of section 2856 the prosecuting attorney of the county, or any “other officer” may lawfully designate a physician or surgeon other than the coroner to make a post mortem examination or autopsy, or whether the coroner has the exclusive right to either perform such service or himself designate a physician or surgeon other than himself to perform such services, is not decided.

From a consideration of all the statutes herein referred to, it is my opinion that no person may be compensated for holding an autopsy unless the same be authorized by the prosecuting attorney; but if so authorized, a physician or surgeon, who has been duly designated to perform the service in lieu of its being performed by the coroner, may be compensated therefor by the allowance of the county commissioners such allowance being entirely within the discretion of the board of county commissioners (*Board of County Commissioners vs. Hammond*, 22 C. C. (n. s.) 319) acting pursuant to section 2460 G. C., and said board of county commissioners is not bound by the amount specified in section 2856-3 in making such allowance. The board may allow such amount as it may determine to be just or refuse to allow any amount. However, not more than one fee should be allowed in any case; that is, if the coroner acts under section 2856, there is no authority to designate a physician or surgeon to act under section 2495.

I am therefore of the opinion that in no county may fees be allowed to any person for conducting a post mortem examination or autopsy without authorization by the prosecuting attorney of the county in which the dead body is found, and if a physician or surgeon other than the coroner be designated under the provisions of section 2495, General Code, by the proper officer, the board of county com-

sioners may, in its discretion, allow a reasonable amount for the performance of such service and the provisions of section 2856-3 do not in such instance prescribe a limitation in amount binding upon the board of county commissioners.

Respectfully,  
C. C. CRABBE,  
*Attorney General.*

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1669.

APPROVAL, TRANSCRIPT COVERING PROCEEDINGS FOR PROPOSED SALE TO GEORGE B. NYE, OF CERTAIN STATE LANDS IN VILLAGE OF WAVERLY, PIKE COUNTY, OHIO.

COLUMBUS, OHIO, August 6, 1924.

*Department of Highways and Public Works, Division of Public Works, Columbus, Ohio.*

Gentlemen:—

Receipt is acknowledged of your letter of August 4, 1924, submitting for my approval transcript, in duplicate, covering proceedings for the proposed sale to George B. Nye, of certain state lands in the Village of Waverly, Pike County, Ohio.

The proposed sale is contemplated in conformity with the provisions of Sections 13971 and 14203-23 of the General Code of Ohio and of the Act of March 6, 1913.

It is noted from the transcript the appraisal of the property was made at the sum of Five Hundred Dollars; that said lands are proposed to be sold as the result of a private sale.

Finding, as I do, that the proceedings as shown by the transcript are in conformity to law, I am indicating my written approval to the proposed sale by signing the duplicate transcript, returned herewith.

Respectfully,  
C. C. CRABBE,  
*Attorney General.*

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1670.

APPROVAL, THREE CANAL LAND LEASES IN LICKING COUNTY, OHIO.

COLUMBUS, OHIO, August 6, 1924.

*Department of Highways and Public Works, Division of Public Works, Columbus, Ohio.*

Gentlemen:—

I have your letter of August 1 1924, in which you enclose the following leases, in triplicate, for my approval: