

604.

OFFICES INCOMPATIBLE—CHIEF OF POLICE AND SANITARY POLICEMAN.

SYLLABUS:

It is against public policy for a chief of police to hold the office of sanitary policeman at the same time and receive compensation for both positions.

COLUMBUS, OHIO, July 9, 1929.

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

GENTLEMEN:—I am in receipt of your letter of May 27, 1929, in which you make the following inquiry:

“May a chief of police in a city legally hold the office of sanitary policeman at the same time and legally be paid compensation for both positions.”

The duties of a chief of police are defined by Sections 4372, 4378 and 4379 of the General Code.

Section 4372 provides that the chief of police shall have exclusive control of the stationing and transfer of all patrolmen and other officers and employes in the department, under such general rules and regulations as the director of public safety prescribes.

Section 4378 provides that the police force shall preserve the peace, protect persons and property and obey and enforce all ordinances of council and all criminal laws of the state and of the United States.

Section 4379 provides that the chief of police shall have exclusive right to suspend any of the deputies, officers and employes in his respective department and under his management and control for causes set forth in this section.

Section 4411 of the General Code provides that the board of health may appoint as many persons for sanitary duty as in its opinion the public health and sanitary conditions of the corporation require, and such persons shall have general police powers and be known as sanitary police. Sanitary police are required to enforce the orders and regulations issued by the board of health, for the public health, the prevention and restriction of disease, and the prevention, abatement and suppression of nuisances.

Section 1238 of the General Code provides as follows:

“Local boards of health, health authorities and officials, officers of state institutions, police officers, sheriffs, constables and other officers and employes of the state or any county, city or township, shall enforce the quarantine and sanitary rules and regulations adopted by the state board of health.”

Section 4413, General Code, provides that the board of health of a city may make such orders and regulations as it deems necessary for the public health, the prevention or restriction of disease, and the prevention, abatement or suppression of nuisances, and that when such orders and regulations are adopted, advertised, recorded and certified as ordinances of municipalities, the record shall be given in all courts of the state the same force and effect as is given ordinances of municipalities.

You will note that under the provisions of Section 1238 of the General Code, *supra*, a chief of police is required to enforce the quarantine and sanitary rules and regulations adopted by the state board of health, and since it is the duty of the chief

of police to enforce all ordinances, he is also required to enforce all orders and regulations of a board of health of a municipality. Therefore, it is apparent that the duties of a chief of police and a sanitary officer are the same insofar as the enforcing of the sanitary and quarantine orders and regulations of city and state boards of health is concerned. Since the chief of police has certain duties to perform which are likewise placed upon a sanitary officer, it could be well said that in a given case he was receiving double compensation for the services performed, and this is contrary to public policy.

Therefore, I am of the opinion that a chief of police cannot hold the office of sanitary policeman at the same time and legally be paid compensation for both positions.

Respectfully,
GILBERT BETTMAN,
Attorney General.

605.

BIDS—RECEIVED BY BOARD OF EDUCATION FOR HEATING SCHOOL BUILDING—MUST CONFORM TO ARCHITECT'S SPECIFICATIONS.

SYLLABUS:

When a board of education has advertised for bids for heating and ventilating a school building, which advertisement states that bids are to be in accordance with the plans and specifications of the architect on file with the clerk of the board, which plans and specifications call for a hot air system of heating, such board of education has no authority, pursuant to such advertisement, to contract for the installation of a steam system of heating for such school building.

COLUMBUS, OHIO, July 9, 1929.

HON. FRANK L. MYERS, *Prosecuting Attorney, Mt. Gilead, Ohio.*

DEAR SIR:—This will acknowledge receipt of your letter of recent date, which reads as follows:

“This office has been requested to ask for an opinion from your department concerning a local school situation and we will appreciate very much the favor of your decision.

The Marengo school board had advertised in accordance with legal requirements for bids for heating and ventilating the proposed new school building in Marengo. Said bids were to be in accordance with the plans and specifications of the architect on file with the clerk of the board.

Bids were duly received and the lowest bid unanimously accepted by the board. It was subsequently discovered that the architect's plans called for a hot air system of heating and the school board had desired steam heating system and had received three competitive bids for steam heat and had voted to contract for the steam heating system.

Can the school board legally proceed to put in steam heat without re-advertising?”

The advertisement for bids to which you refer was made presumably in accordance