

which are located municipalities having local civil service commissions the state civil service commission may designate the local commission of the largest municipality within such county as its agent, for the purpose of carrying out such provisions of this act within said counties, as the state civil service commission may designate from time to time; * * *

Section 486-11, General Code, reads in part, as follows:

“ * * * All fees collected under the provisions of this act shall be paid into the state treasury to the credit of the general revenue fund, or in the case of cities into the city treasury. * * *”

The Civil Service Commission of the City of Cleveland has no authority to hold examinations for county positions except the authority delegated to it by the State Civil Service Commission. This being true, there can be no question but that in conducting such examinations it acts solely as agent of the State Civil Service Commission and not in its capacity as the Civil Service Commission of the City of Cleveland. Such acts as it performs as the agent of the State Civil Service Commission, are the acts of the State Civil Service Commission, and while engaged in the performance of such acts it is, in effect, the State Civil Service Commission and is subject to the statutory provisions which prescribe the powers and duties of the State Civil Service Commission. It follows that the last ten words of Section 486-11, above quoted, have no application in cases where the Civil Service Commission of the City of Cleveland acts as the agent of the State Civil Service Commission in conducting examinations for county positions and that the fees received from conducting such examinations should be paid into the state treasury.

Respectfully,

HERBERT S. DUFFY,

Attorney General.

1256.

SALE OF SECURITIES—COMPENSATION AND REMUNERATION—SECTION 8624-6, OHIO GENERAL CODE.

SYLLABUS:

1. *The total commission, remuneration, expense or discount in con-*

nection with the sale of securities registered by description under the provisions of Section 8624-6 (1), General Code, should not exceed two per cent of the total sale price thereof, plus five hundred dollars.

2. Where certain interested individuals pay additional compensation to representatives of an issuing company, which compensation brings the total commissions to be received by said representatives to an amount in excess of two per cent of the total price plus five hundred dollars, the sale of such securities is made in violation of the provisions of Section 8624-6 (1), General Code.

COLUMBUS, OHIO, September 30, 1937.

HON. DAN T. MOORE, *Chief, Division of Securities, Columbus, Ohio.*

DEAR SIR: This will acknowledge receipt of your letter of recent date concerning a corporation which has registered a transaction in securities under the provisions of Section 8624-6(1), General Code. Your letter in part reads as follows:

"The total commission, remuneration, etc., paid or incurred by the corporation itself does not exceed 2% of the total sales price plus \$500.00. The company has authorized representatives to consummate sales of its securities on its behalf and in its name. Certain interested individuals have or will pay additional compensation to such representatives, which additional compensation will bring the total remuneration to be received by said representatives to in excess of 2% of the total sales price plus \$500.00."

The question involved in your letter is whether or not a transaction in securities as above outlined is in accord with the conditions of Section 8624-6(1). Section 8624-6(1), General Code, provides in part as follows:

"The following transactions in securities may be carried on and completed upon compliance with Section 7 of this act:

An issuer engaging in any transaction specified in this section shall not be deemed to be a dealer.

(1) The sale of its securities by a corporation organized under the laws of this state, when no part of the securities to be sold is issued directly or indirectly in payment or exchange for intangible property or for property not located in this state, and when the total commission, remuneration, expense or discount in connection with the sale of such securities

does not exceed two per centum (2%) of the total sale price thereof plus five hundred dollars (\$500).

* * *

* * *

* * *."

A careful reading of the foregoing provision indicates that the legislature intended to limit the total commission, remuneration, expense or discount in connection with a transaction in securities registered under Section 8624-6(1) to two per cent of the total sale price of such securities plus five hundred dollars. It would seem that the legislature did not intend to distinguish between a transaction where the commissions, etc., were paid by the issuing company or by other interested persons. It might be argued that the language of Section 8624-6(1) contemplates that the issuing company will receive not less than 98% of the total sale price of securities less \$500.00, and where the issuing company receives such an amount such sales are made in accordance with the provisions of the foregoing section. However, I am of the opinion that the legislature did not intend such an interpretation for it could have used more appropriate language to express such an intention. In 37 O. Jur. Section 306, I find the following language, with many authorities cited:

"In the interpretation of statutes, the fact is sometimes mentioned that if the legislature had intended to enact a law as interpreted it could not easily have chosen more appropriate language. On the other hand, reference is occasionally made to the fact that if the legislature intended a particular interpretation which is suggested it could easily have found apt words or phrases to express it—especially where it appears that the conditions or circumstances of the suggested interpretation were not unknown to the legislature, which had previously, or subsequently, or in another connection used such apt phraseology."

An examination of the provisions of the Ohio Securities Act reveals that the legislature in enacting certain other provisions of the act providing for registration of securities required the issuing company to receive specified amounts in the sale of some securities. Thus, a transaction in securities may be registered by description under Section 8624-6(5), General Code, where the "sale, by a licensed dealer, of any securities (1) for which the issuer has received * * * not less than ninety per cent of the aggregate price at which all such securities are offered to the public generally * * *". Securities registered by qualification under Section 8624-10, General Code, may be sold if an applicant for such registration shows that the issuer of such securities will receive not less

than eighty-five per cent of the aggregate price at which such securities are sold. In view of the language used by the legislature in Sections 8624-6(5) and 8624-10 and the wholly different language in Section 8624-6(1), it would seem that the legislature intended different results in the respective sections.

The Supreme Court of Ohio, in the case of *Securities Co. vs. Bank*, 117 O. S. 69, recognized the rule that the use by the General Assembly of certain language in one instance and wholly different language in another indicates that different results were intended.

In view of the above and in specific answer to your inquiry, I am of the opinion that the total commission, remuneration, expense or discount in connection with the sale of securities registered by description under the provisions of Section 8624-6(1), General Code, should not exceed two per cent of the total sale price thereof plus five hundred dollars. Where certain interested individuals pay additional compensation to representatives of an issuing company, which compensation brings the total commissions to be received by said representatives to an amount in excess of two per cent of the total sale price plus five hundred dollars, the sale of such securities is made in violation of the provisions of Section 8624-6(1), General Code.

Respectfully,

HERBERT S. DUFFY,
Attorney General.

1257.

APPROVAL—ABSTRACT OF TITLE, WARRANTY DEED, AND
CONTRACT ENCUMBRANCE RECORD RELATING TO THE
PURCHASE OF A PARCEL OF LAND OWNED BY MAC-
LEOD BAER, IN THE VILLAGE OF OXFORD, BUTLER
COUNTY, OHIO.

COLUMBUS, OHIO, September 30, 1937.

HON. W. P. ROUDEBUSH, *Secretary, Board of Trustees, Miami University,
Oxford, Ohio.*

DEAR SIR: You have submitted for my examination and approval an abstract of title, warranty deed, contract encumbrance record No. 1653 relating to the proposed purchase by the President and Trustees of Miami University of a parcel of land which is owned of record by one