Your letter further states that the City of Crawfordsville owns and operates a sewage disposal plant, and that the common council of the City of Crawfordsville, Indiana, included in the budget adopted for the year 1943 an appropriation for the salary of a superintendent of the sewage disposal plant. The city engineer is not an elective office, and he does not hold office for any determinate period of time.

Burns' R. S. 1933, section 48-1222, being section 10 of chapter 233 of the Acts of 1933, page 1042, expressly provides that all appointive officers, deputies, employees, assistants, and departmental and institutional heads shall be appointed by the mayor and that such officers, deputies, employees, assistants and departmental and institutional heads shall serve at the pleasure of the mayor, who may terminate their office or employment at any time.

It is my opinion that Article 15, Section 2 of the Constitution of Indiana, as amended November 2, 1926, applies only to elected or appointed officers who have either under the constitution or under a statute a fixed term of office, and does not apply to a person who holds office at the pleasure and sufferance of the appointing power without any fixed term of office.

For the reasons stated, it is my opinion that your question must be answered in the negative.

* * *

BOARD OF ACCOUNTS: Construction of Chapter 130 of the Acts of 1943 relating to playgrounds.

March 27, 1943.

Mr. Otto K. Jensen,
State Examiner,
Dept. of Inspection and Supervision of Public Offices,
State House,
Indianapolis, Indiana.

Dear Mr. Jensen:

I am in receipt of your written request dated March 24, 1943, requesting my opinion as to the proper interpretation to be placed upon the amendments made by Chapter 130 of the Acts of 1943, to Section 6 of Chapter 172 of the Acts of
1925 as amended by Chapter 46 of the Acts of 1927. Your specific questions are as follows:

"(1) Does Chapter 130 of the Acts of 1943, authorize cities and towns to appropriate from the funds of a municipally owned utility or from any funds other than from a tax levy, an amount not in excess of the amount raised by the tax levy, provided by said act, for the paying of the expenses incurred in carrying out the provisions of chapter 172 of the Acts of 1925, as amended?

"(2) Do the funds of the recreation commission remaining unexpended at the end of any year for which they were appropriated, revert to the general fund of the city or to any other fund?"

By the provisions of Chapter 130 of the Acts of 1943 the Legislature amended Section 6 of the original law to read as follows:

"Sec. 6. All expenses necessarily incurred in carrying out the provisions of this act shall be paid by such civil cities or towns out of any funds which may be received by such civil cities or towns as a gift for such playgrounds and recreation centers, also out of funds not raised by such civil cities or towns by taxation, and out of funds raised by taxation as provided for in this act: Provided, however, That as to the funds not raised by any such civil cities and towns by taxation, the amount thereof which in any year, may be transferred or appropriated for the expenses incurred in carrying out the provisions of this act, shall not in any case exceed the maximum amount which may be raised by taxation for said year under the provisions of this act. * * * Such funds and the proceeds of any bonds issued pursuant hereto shall under no circumstances be used for any purpose other than the purposes designated in this act, and shall be subject to the warrant of the proper city or town official without any further appropriation."

The italicized language, supra, constitutes new provisions inserted in Section 6 by the Legislature. Answering your ques-
tion numbered 1, it is my opinion that the new language inserted in Section 6, to-wit: "also out of funds not raised by such civil cities or towns by taxation" is sufficiently broad and all-inclusive to authorize cities and towns to appropriate from the funds of a municipally owned utility, or any funds other than from a tax levy, an amount not in excess of the amount raised by tax levy as provided for the purpose of carrying out the provisions of Chapter 172 of the Acts of 1925, being Burns' R. S. 1933, Secs. 48-6901 to 48-6907 inclusive.

Answering your second question, it is my opinion that the following language, to-wit: "Such funds and the proceeds of any bonds issued pursuant hereto shall under no circumstances be used for any purpose other than the purpose designated in this act," prevents any unexpended funds remaining in the recreation fund at the end of the year from reverting to the general fund or any other fund of the city, or being expended for any purposes except as provided in the Act.

BOARD OF ACCOUNTS: Construction of Chapter 239 of Acts of 1943 relating to fees for feeding prisoners.

March 31, 1943.

Hon. Otto K. Jensen, State Examiner,
State Board of Accounts,
Indianapolis, Indiana.

Dear Sir:

Your letter of March 29, 1943, requests an opinion on the following questions, to-wit:

"1. Is the exact amount per meal to be paid to the several sheriffs for feeding prisoners, for the period from the effective date of Chapter 239 of the Acts of 1943, to July 1, 1943, fixed by the order of the state examiner made on or before the fifteenth day of June, 1942, for the year beginning July 1, 1942?"

"2. If your answer to the first question is in the negative, by what authority and by what officer or officers is such determination made?"