By this I do not mean to say that payment under the contract can exceed the expenses to which the company is put, for this would make the operation one for profit and I am not attempting to pass upon the right of a municipality to contract for fire protection with a corporation either organized for profit or in fact operated for profit. Neither is it my intention to sanction a contract which, in effect, would ultimately result in the purchase of equipment, through the agency of a volunteer company, for the municipality and by such means avoid the provisions of law relative to competitive bidding.

Subject to these qualifications, however, I believe that payment may be made and that such payment does not prevent the organization receiving such payment from being classed as a volunteer company. Such an arrangement is particularly valuable to the smaller communities in which the maintenance of a regular fire department would constitute too heavy a burden and in which substantially the same result can be accomplished at an effective saving of public expenditure through employing the services proffered in a spirit of civic pride and public service by volunteer fire companies.

In view of the foregoing, and in specific answer to your inquiry, it is my opinion that a municipal corporation may legally contract for fire protection with a volunteer company which is a private organization and pay for such protection from public funds, unless such municipality in pursuance of its constitutional authority, has adopted a charter and other regulations inconsistent with the provisions of the general law with respect to such power.

Respectfully,
EDWARD C. TURNER,
Attorney General.

728.

CORONER—VIEWING BODY OF LIVING PERSON SUPPOSED TO BE DEAD—TRAVELING FEE LAWFUL.

SYLLABUS:

1. *When a coroner has been informed that a dead body has been found in his county, whose death is supposed to have been caused by unlawful or suspicious means, and he travels to the place where the body is reported to be, he is entitled to a fee of ten cents for each mile traveled by reason of such information.*
2. *Such right is not defeated by the fact that the information was false.*

COLUMBUS, OHIO, August 12, 1929.

HON. G. G. JEWELL, *Prosecuting Attorney, Eaton, Ohio.*

DEAR SIR:—Permit me to acknowledge receipt of your request for my opinion as follows:

> "On May 30, 1929, Dr. C. M. Treffinger, coroner of Preble County, was notified that a dead man had been found four miles northeast of Eaton. The coroner went to the place designated without delay. Dr. Treffinger made an examination which showed the man was alive. The man was intoxicated and had been run over by an automobile, thus causing a belief that he was dead.
>
> The coroner is of the opinion that he is entitled to fees, etc., the same

as if a dead person had been found as defined in Section 2856, G. C.

A reading of Section 2856 leads me to the belief that the coroner was misinformed and that his investigation does not fall within the definition of his duties as set forth in this section.

Is the coroner entitled to any fees whatsoever, particularly for his trip to the point where the dead body was supposed to be?"

Inasmuch as Preble County is a county having a population of less than 400,000, my opinion will be directed solely to the question as it affects coroners of such counties.

Section 2856, General Code, in so far as it relates to the question under consideration, reads as follows:

"When informed that the body of a person whose death is supposed to have been caused by unlawful or suspicious means has been found within the county the coroner shall appear forthwith at the place where the body is, issue subpoenas for such witnesses as he deems necessary, administer to them the usual oath, and proceed to inquire how the deceased came to his death," etc.

This section further provides for his further proceedings in holding an inquest.

You do not state whether or not the coroner, at the time he was notified, was informed or had reason to believe from such information that the body reported to have been found was supposed to have met its death by "unlawful or suspicious means." You do state, however, that the man had been run over by an automobile. I am presuming that the coroner had information sufficient to lead him to believe that there were "suspicious means" connected with the reported death.

It will be noted that Section 2856, supra, provides that when a coroner has been "informed" that the body of a person whose death is supposed to have been caused by "unlawful or suspicious means" has been found, the coroner shall "forthwith" appear at the place where the body is. That is the first thing required of him in such a case. The second step to be taken by him is to "issue subpoenas for such witnesses as he deems necessary." If after reaching the place he finds that it is not necessary to subpoena witnesses, it is not necessary for him so to do.

It would therefore seem to be a mandatory duty of the coroner, when he receives information upon which he may reasonably act that a body of a person has been found whose death is supposed to have been caused by "unlawful or suspicious means," to proceed "forthwith" to the place where the body is.

Section 2866, General Code, relates to the fees to be charged by coroners and reads as follows:

"Coroners shall be allowed the following fees: For view of dead body, three dollars; for drawing all necessary writings, for every one hundred words, ten cents; for traveling each mile, ten cents; when performing the duties of sheriff, the same fees as are allowed to sheriffs for similar services."

This section provides for fees for the following things:

1. For viewing dead body.
2. For drawing all necessary writings.
3. For traveling.

In the instant case, the coroner did not view a dead body; neither did he have any occasion for any writings; he was required, however, to travel, and the statute provides that in such instance he shall receive ten cents for each mile so traveled.

Therefore, if the coroner acted in good faith in responding to the call, and acted

only as coroner, I am of the opinion that he would be entitled to receive ten cents for each mile traveled by him by reason of such information.

This view seems to be supported by my predecessor in an opinion found in the Opinions of the Attorney General, 1923, Volume 1, page 360.

Your inquiry states that the coroner was "notified" that a dead body had been found. The statute provides when he is "informed" that the body of a person, etc., has been found, he shall act. To be informed means to receive knowledge of some fact. This is the definition found in all dictionaries and is the common and well recognized use of said term.

However, if the coroner, who was a physician, rendered personal services to this man after he reached the place and made a charge against him therefor, he would not in that event be entitled to collect fees as coroner for the reason that he would abandon his right to the fees when he made a charge against the person receiving the services, thereby making it a personal matter between himself and the patient treated.

It is therefore my opinion that when a coroner has been informed that a dead body has been found in his county, whose death is supposed to have been caused by unlawful or suspicious means, and he travels to the place where the body is reported to be, he is entitled to a fee of ten cents for each mile traveled by reason of such information; such right is not defeated by the fact that the information was false.

Respectfully,
GILBERT BETTMAN,
Attorney General.

729.

DISAPPROVAL, AUTHORITY TO CANCEL LEASE OF THE COLUMBUS, NEWARK & ZANESVILLE R. R. COMPANY TO OHIO CANAL LAND.

COLUMBUS, OHIO, August 12, 1929.

HON. RICHARD T. WISDA, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—This is to acknowledge receipt of your recent communication with which you enclose copy of a lease executed to the Columbus, Newark and Zanesville Railway Company January 5, 1923, by which there was granted to said company for a term of twenty-five years the right to use and occupy the Ohio canal banks and prpoerty between Newark and Hebron for railway right-of way and pole line purposes. The annual rental to be paid under said lease was and is the sum of $1700.00, of which the sum of $420.00 was and is apparently segregated as the apportioned rental of said property for pole line purposes.

In your communication, you advise that the Columbus, Newark and Zanesville Railway Company, pursuant to authority granted to it for the purpose by the Ohio Public Utilities Commission, has discontinued service over its line between Columbus and Newark; and my opinion is asked in the alternate as to your authority to cancel this lease and execute a new lease to the Ohio Power Company, the successor in interest to the property and assets of the Columbus, Newark and Zanesville Railway Company, or as to your authority to cancel so much of the existing lease as pertains to railway right-of-way over said canal lands, and leave standing so much of said lease as pertains to the pole line easement or privilege over said land.

Touching the questions presented in your communication, it is noted that this department, in an opinion directed to the Superintendent of Public Works under date of March 1, 1915, Opinions of the Attorney General, 1915, Vol. I, p. 205, held: