

5363.

APPROVAL—BONDS OF CITY OF CLEVELAND, CUYAHOGA
COUNTY, OHIO, \$5,000.00.

COLUMBUS, OHIO, April 15, 1936.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.

5364.

JUSTICE OF PEACE—ALLOWANCE IN SEC. 3019, G. C., MAY
NOT BE PAID JUSTICE IN FELONY CASE WHERE DE-
FENDANT PUT ON PROBATION—MAY BE PAID IN MIS-
DEMEANOR CASES WHEN.

SYLLABUS:

1. *The allowance provided in Section 3019, General Code, for a justice of the peace may not be paid in a felony case wherein the justice of the peace acts as an examining magistrate, and which results in the defendant being found guilty by the common pleas court and being put on probation.*

2. *County commissioners are unauthorized to make the statutory allowance provided in Section 3019, General Code, for a justice of the peace in misdemeanor cases where the defendant is found guilty by the common pleas court and put on probation without requiring the payment of costs, unless the county commissioners are satisfied the justice of the peace exercised reasonable care in requiring security for costs and unless the defendant is insolvent and such costs could not be collected from him by the proper legal proceedings.*

3. *In general, the phrase "In felonies wherein the state fails", refers to a situation wherein a defendant is actually tried for a felony which results in the acquittal of the defendant.*

COLUMBUS, OHIO, April 15, 1936.

HON. D. H. JACKMAN, *Prosecuting Attorney, Madison County, London, Ohio.*

DEAR SIR: This will acknowledge receipt of your request for my opinion, which reads as follows: