

ambiguity and clearly express the intent and purpose of the Legislature, there is no room for any other construction.

Therefore, in view of the foregoing, and in specific answer to the questions presented by your request, it is my opinion that:

1. Under the provisions of paragraph (h) of Section 1082-1 and Section 1082-17 of the General Code, beauty parlors individually operated are not required to be in charge of or under the immediate supervision of a licensed managing cosmetologist.

2. All those beauty parlors employing two or more operators or those operated in connection with a school of cosmetology under the provisions of paragraph (h) of Section 1082-1 and Section 1082-17 of the General Code, are required to be in charge of and under the immediate supervision of a licensed managing cosmetologist.

3. A person to be eligible as a managing cosmetologist must meet the requirements laid down in the proviso contained in Section 1082-5 of the General Code, the terms of which require that an applicant in order to be eligible for a manager's license must either (1) have actually engaged in the practice as manager of a beauty parlor in another state or territory of the United States, or the District of Columbia for a period of five years, or (2) have a training of at least one thousand hours in an approved school of cosmetology and have served at least eighteen months as an operator in a licensed beauty parlor, or (3) have served for a period of at least three years as an operator in a licensed beauty parlor in which a majority of the occupations of a cosmetologist are practiced.

Respectfully,

HERBERT S. DUFFY,
Attorney General.

1863.

CONSTABLE — WHERE PERSON COMMITTED MISDEMEANOR IN TOWNSHIP AND FLED ACROSS TOWNSHIP LINE—CONSTABLE WITHOUT AUTHORITY TO PURSUE AND ARREST SUCH PERSON—PEACE OFFICER.

SYLLABUS:

A constable is without authority under the law of Ohio to pursue and arrest a person, found by him in the commission of a misdemeanor within the limits of the township for which such constable was appointed or elected, beyond the limits of such township.

COLUMBUS, OHIO, February 3, 1938.

HONORABLE RALPH J. BARTLETT, *Prosecuting Attorney, Franklin County, Columbus, Ohio.*

DEAR SIR:—I am in receipt of your communication of recent date as follows:

“Will you please give me your opinion on the following question:

“Can a constable, in hot pursuit of a person who has committed a misdemeanor within the limits of a township, and who has fled across the township line before he is apprehended, follow said person and arrest him outside of the township?”

After Magna Charta the people of England naturally became proud of their personal rights and he who trampled upon them did so at his peril. They had peace offices at common law, just as we have them in Ohio. They were named by statute and their jurisdiction was co-extensive with the courts they served. You will find the subject of arrest at common law dealt with in:

Wendel's Blackstone, Vol. 4, Chap. 21, Ps. 330 et seq.
Chitty's Criminal Law, Vol. 1, Secs. 11 to 71, inc.

An examination of these authorities will make it patent that in those days an arrest was a serious matter and it was necessary that the arrest be made as provided by statute, else the arresting officer would be regarded as a trespasser and treated accordingly.

I find no authority whatever at common law, granting authority even to a peace officer to pursue beyond his jurisdiction a person who committed a misdemeanor in his presence, or as the term was then used “on sight”. True, we have no common law crimes in Ohio as we have no common law criminal procedure, and these English authorities are adverted to for the sole and only purpose of fortifying the proposition that an officer can make an arrest only when and where he is authorized so to do. It is essential that we keep in mind the fact that we are dealing with a constable in this opinion. Some one has committed a misdemeanor within the constable's township. The constable pursues him. Must the constable stop at his township line, or can he continue his pursuit and arrest him in the adjoining township, or if he can not catch him in the adjoining township extend his pursuit to other townships and arrest him if he catches up with him anywhere in the county? The constable can not go beyond the boundaries of the township in

which he was elected to arrest for a misdemeanor, unless the statutory law of Ohio so authorizes.

Section 13432-1, General Code, provides:

“A sheriff, deputy sheriff, marshal, deputy marshal, watchman or police officer, herein designated as ‘peace officer’ shall arrest and detain a person found violating a law of this state, or an ordinance of a city or village until a warrant can be obtained. A constable within the limits of the township in which said constable has been appointed or elected, shall arrest and detain a person found by him in the commission of a misdemeanor, either in violation of a law of this state or an ordinance of a village, until a warrant can be obtained.”

This section is found in Volume 115, O. L., at Page 530, and it became effective October 17, 1933. Among other sections, it amended existing Section 13432-1, General Code, Volume 113, O. L., Page 140, which read as follows:

“A sheriff, deputy sheriff, constable, marshal, deputy marshal, watchman or police officer herein designated as ‘peace officers’ shall arrest and detain a person found violating a law of this state, or an ordinance of a city or village until a warrant can be obtained.”

Thus it will be seen that the constable was taken out of the category of “peace officers” and his authority to arrest for misdemeanors is limited to the limits of his township. Section 13432-1 deals with criminal procedure and must be strictly construed.

When the General Assembly provided that a constable could arrest a person found by him in the commission of a misdemeanor within the township for which he was appointed or elected, it certainly could not have meant that such constable could pursue and arrest in other townships of the county and this view becomes more manifest when it is remembered that by the amendment he lost the authority theretofore delegated to him as a peace officer.

It would seem that the General Assembly just did not desire to invest the constable with the powers of a “peace officer” and it further desired to confine him to the limits of his township in making arrests for misdemeanors.

Answering your specific question, I am of the opinion that a constable can not pursue a person who has committed a misdemeanor within the limits of his township and arrest him outside of such township. He

did have such power prior to the last amendment of Section 13432-1, General Code, but by that amendment it was taken away from him.

Respectfully,

HERBERT S. DUFFY,
Attorney General.

1864.

APPROVAL—BONDS CITY OF CINCINNATI, HAMILTON COUNTY, OHIO, \$100,000.00, PART OF ISSUE DATED FEBRUARY 1, 1938.

COLUMBUS, OHIO, February 3, 1938.

The Industrial Commission of Ohio, Columbus, Ohio.

GENTLEMEN :

RE. Bonds of City of Cincinnati, Hamilton County,
Ohio, \$100,000.00.

I have examined the transcript of proceedings relative to the above bonds purchased by you. These bonds comprise part of three issues of bonds authorized by the election of November 5, 1929, dated February 1, 1938, bearing interest at the rate of 2% per annum, as follows: (1) Park bonds in the aggregate amount of \$100,000 being the twelfth installment of a \$1,000,000 authorization; (2) Playground bonds in the aggregate amount of \$225,000, being the eighth installment of a \$1,000,000 authorization; and (3) Municipal garage bonds in the aggregate amount of \$225,000, being the second and last installment of a \$250,000 authorization.

From this examination, in the light of the law under authority of which these bonds have been authorized, I am of the opinion that bonds issued under these proceedings constitute a valid and legal obligation of said city.

Respectfully,

HERBERT S. DUFFY,
Attorney General.