

It will be observed in the above form of insurance that there is no incorporation of the subscribers as such to make them a body corporate or a legal entity. The name adopted and used by this group in providing for reciprocal or inter-insurance contracts means very little except a convenient form of designating a name and place where such contracts may be exchanged, and this place is always the office of the Attorney in Fact. In practical operation the office of the Attorney in Fact compares with that of the head office of any other insurance company.

The Attorney in Fact publishes the rates, prepares the contracts of insurance, appoints soliciting agents, adjusts and settles the losses, keeps the accounts, and makes all reports required under the law.

When the subscriber makes application for insurance in this kind of an association, he executes in connection with said application a power of attorney to the Attorney in Fact authorizing him to do all these things for and on behalf of such subscriber as is permissible and required under the law to enable such an association to operate.

It is therefore my opinion that under the provisions of Section 9556-7, General Code, said corporation is required to pay the amount of the tax therein provided for as an insurance company. Said section also provides that no further taxes shall be imposed for the privilege of transacting business in this state.

It is also my opinion that under the provisions of Section 10 of Amended Substitute Senate Bill, No. 22, the Attorney in Fact of a reciprocal or inter-insurance association, being required by law to file an annual report with the superintendent of insurance and pay the tax required under Section 9556-7, is not subject to the provisions of said Act above mentioned, Amended Substitute Senate Bill, No. 22, and is therefore exempt from the payment of the franchise tax provided for in said Act.

Respectfully,  
EDWARD C. TURNER,  
*Attorney General.*

833.

FEEDING OF PRISONERS—AUTHORITY OF SHERIFF TO BUY COOKED FOOD FROM RESTAURANTS—SECTION 3162, GENERAL CODE, DISCUSSED.

SYLLABUS:

*By the terms of Section 3162, General Code, the Court of Common Pleas has full, complete and exclusive authority to promulgate rules and regulations for the feeding of prisoners and other persons confined in county jails. In the absence of any such rule to the contrary, a sheriff may lawfully purchase food already prepared for consumption from a restaurant or other person, subject however, to such rules and regulations relating to the purchasing of food as may be prescribed by the county commissioners and to the limitations of Section 2850, General Code, that he shall be allowed only the actual cost of feeding such inmates, but at a rate not to exceed seventy-five cents per day of three meals each.*

COLUMBUS, OHIO, August 5, 1927.

*Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.*

GENTLEMEN:—This will acknowledge receipt of your inquiry of recent date which reads as follows:

"Under the provisions of Section 2850, as amended in Amended Senate Bill No. 28, may a sheriff contract with the operators of a restaurant, or other person, to furnish meals to prisoners in the county jail at an expense per meal of not to exceed 25 cents, the bills of such restaurant or other person being presented to the county commissioners monthly for payment?"

Your attention is directed to the following sections of the General Code, which so far as pertinent to your inquiry, provide:

Sec. 3162. "The court of common pleas shall prescribe rules for the regulation and government of the jail of the county, not inconsistent with the law, upon the following subjects:

\* \* \* \* \*

Tenth: Other regulations necessary to promote the welfare of the persons. (prisoners)"

Section 2850, General Code, as amended by Amended Senate Bill No. 28, passed March 8, 1927,

"The sheriff shall be allowed by the county commissioners the actual cost of keeping and feeding prisoners or other persons confined in the jail, but at a rate not to exceed seventy-five cents per day of three meals each. The county commissioners shall allow the sheriff the actual cost but not to exceed seventy-five cents each day of three meals each for keeping and feeding any idiot or lunatic placed in the sheriff's charge. All food shall be purchased by the sheriff under rules and regulations to be prescribed by the county commissioners. On the fifth day of each month the sheriff shall render to the county commissioners an itemized and accurate account, with all bills attached, showing the actual cost of keeping and feeding prisoners and other persons placed in his charge and the number of meals served to each such prisoner or other person during the preceding month. The number of days for which allowance shall be made shall be computed on the basis of one day for each three meals actually served. In counties where the daily average number of prisoners or other persons confined in the county jail during the year next preceding, as shown by the statistics compiled by the sheriff under the provisions of Sections 3158 and 3159 of the General Code, did not exceed twenty in number, the commissioners shall allow the sheriff not less than fifteen cents nor more than twenty-five cents per meal. Such bills, when approved by the county commissioners, shall be paid out of the county treasury on the warrant of the county auditor. The sheriff shall furnish, at the expense of the county, to all prisoners or other persons confined in the jail, fuel, soap, disinfectants, bed, clothing, washing and nursing when required, and other necessities as the court in its rules shall designate. The jail register and the books of accounts, together with bills for the feeding of prisoners and other persons in the jail, shall be open to public inspection at all reasonable hours."

In the recent case of *Kohler, sheriff vs. Powell, et al.*, 115 O. S. 418, Vol. XXV, The Ohio Law Bulletin and Reporter, January 17, 1927, the first paragraph of the syllabus reads:

"1. Section 3162 of the General Code confers upon the common pleas court full, complete and exclusive authority to promulgate rules and regula-

tions for the management and control by the sheriff of the county jail and the persons confined therein, including the feeding of the prisoners."

Your attention is further directed to Opinion No. 361, dated April 21, 1927, Opinions, Attorney General for 1927, wherein the following language appears:

"In considering the applicability of the principles of the Kohler case to the question at hand we must necessarily note that the statute (Section 2850, General Code,) which was in force at the time the court decided this case did not include the provision: 'All food shall be purchased by the sheriff under rules and regulations to be prescribed by the county commissioners.' This was inserted in Amended Senate Bill No. 28, after the decision of the court in the Kohler case and we must necessarily conclude that the legislature had in mind the decision in the Kohler case and considered the fact that under the law then in force, the common pleas court was vested with the power to make rules and regulations with reference to the diet of the prisoners and that the Supreme Court based its decision with reference to the diet of the prisoners on the construction of that part of Section 3162, *supra*, wherein it is provided that the Common Pleas Court is empowered to make rules for the regulation of the county jail, including 'other regulations necessary to promote the welfare of the persons confined in the jail,' and the further provision of law contained in Section 13574, General Code, wherein it is provided that the grand jurors shall visit the county jail, inquire into the discipline and treatment of the prisoners, their habits, diet and accommodations and report to the court whether or not the rules prescribed by the court have been faithfully kept and observed.

In amending Section 2850, *supra*, by the enactment of Amended Senate Bill No. 28, no change was made in either Section 3162 or 13574, *supra*. It is therefore apparent that there was no intention on the part of the legislature to change the law so far as the court's right to make rules with reference to the diet of the prisoners was concerned.

Such rules as the commissioners are empowered to make by the provision that 'all food shall be purchased by the sheriff under rules and regulations to be prescribed by the county commissioners' only go to regulating the *purchasing* of the food and not to the regulation of the diet of the prisoners or the prescribing of a menu to be served."

The statutes are silent regarding whether food for prisoners and other persons confined in jail must be purchased in the raw product or already prepared for human consumption. The law imposes a duty upon the several sheriffs to feed such prisoners and other persons as may lawfully come into their custody. In so doing they are vested with certain discretion to be exercised subject at all times, of course, to the law and such rules and regulations as under the terms of Section 3162, *supra*, the Court of Common Pleas promulgates. The Court of Common Pleas, as stated in the Kohler case, *supra*, has full, complete and exclusive authority to promulgate rules and regulations for the management and control by the sheriff of the county jail and the persons confined therein, including the feeding of such inmates. In the absence of rules and regulations therefor the sheriff must exercise his discretion and judgment, subject, however, to the provisions of Section 2850, *supra*, that all food shall be purchased by him under the rules and regulations, if any, prescribed by the county commissioners and that he shall be allowed only the actual cost of keeping and feeding such inmates but at a rate not to exceed seventy-five cents per day of three meals each.

Specifically answering your question, in the absence of any such rule to the contrary, a sheriff may lawfully purchase food already prepared for consumption from a restaurant or other person, subject, however, to such rules and regulations relating to the *purchasing* of food as may be prescribed by the county commissioners and to the limitations of Section 2850, General Code, that he shall be allowed only the actual cost of feeding such inmates but at a rate not to exceed seventy-five cents per day of three meals each.

Respectfully,  
EDWARD C. TURNER,  
*Attorney General.*

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834.

APPROVAL, BONDS OF VILLAGE OF EMPIRE, JEFFERSON COUNTY—  
\$4,082.25.

COLUMBUS, OHIO, August 5, 1927.

*Industrial Commission of Ohio, Columbus, Ohio.*

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835.

BOARDS OF EDUCATION—MAY CONTRACT FOR THE TRANSPORTATION OF PUPILS FOR AN ENTIRE SCHOOL YEAR OR FOR A TERM OF YEARS.

**SYLLABUS:**

*Boards of education may in their discretion contract for the transportation of pupils for an entire school year or for a longer period if they deem it advisable, provided the general provisions of law with reference to the making of contracts by boards of education are complied with.*

COLUMBUS, OHIO, August 6, 1927.

HON. J. L. CLIFTON, *Director of Education, Columbus, Ohio.*

DEAR SIR:—This will acknowledge receipt of your inquiry as follows:

“We have an inquiry as to the length of time for which a board of education may contract with a bus owner or driver for the transportation of school children. On the one hand, the statutes seem to restrict a board of education from making any contract beyond the close of the fiscal year. On the other hand, such a thing as a contract on a unit basis is recognized which may be carried over to a subsequent budgetary period. On these latter terms it would seem that a board might contract with the bus owner or driver for a period of years.