

indeed as to have become a standard or custom in such matters in colleges and universities.

For the reasons thus stated, your third question is answered in the negative.

Respectfully,

JOHN G. PRICE,

Attorney-General.

1905.

SHERIFF—WHERE PERSON EMPLOYED TO WHITEWASH JAIL—
COUNTY COMMISSIONERS HAVE DISCRETION TO REFUSE TO
ALLOW FULL AMOUNT OF BILL.

Where the county sheriff employs one to whitewash a jail, and O. K's the bill presented for such labor, the county commissioners may, in their discretion, properly refuse to allow the full amount of the bill.

COLUMBUS, OHIO, March 9, 1921.

HON. MERVIN DAY, *Prosecuting Attorney, Paulding, Ohio.*

DEAR SIR:—Your letter of recent date is as follows:

"The sheriff of this county employed a man to whitewash certain rooms in the jail. The rooms are not what are called cells proper for the confinement of prisoners, but the inspector for the state board of health had on numerous occasions ordered the sheriff to have this done to put the building in a sanitary condition.

The sheriff approved the bill at the rate of sixty cents per hour. When it was presented to the commissioners they cut it to fifty cents per hour and allowed the bill.

QUESTION: Referring to section 3160 particularly, or to any authority which the sheriff might have under the law, do the commissioners have the right to cut this bill for this kind of work after it has been approved by the sheriff?

I might further add that the sheriff made no specific bargain with the workman about the work before the work was done as to the rate per hour that the work was to be paid for. The sheriff approved the charge after the work was done."

Section 3160 G. C. provides:

"The sheriff shall visit the jail, and examine into the condition of each prisoner at least once during each month, and once during each term of the court of common pleas. He shall cause the cells and rooms used for the confinement of prisoners to be thoroughly whitewashed at least three times each year."

In view of your statement that the inspector of the state board of health had required that the sheriff cause certain rooms to be whitewashed, together with the provisions of the foregoing section, it is evident that the sheriff in taking the action he did was fully within his powers.

In connecton with your inquiry it would seem proper to consider the provisions of section 2460 of the General Code, as follows:

"No claims against the county shall be paid otherwise than upon the allowance of the county commissioners, upon the warrant of the county auditor, except in those cases in which the amount due is fixed by law, or is authorized to be fixed by some other person or tribunal, in which case it shall be paid upon the warrant of the county auditor, upon the proper certificate of the person or tribunal allowing the claim. No public money shall be disbursed by the county commissioners, or any of them, but shall be disbursed by the county treasurer, upon the warrant of the county auditor, specifying the name of the party entitled thereto, on what account, and upon whose allowance, if not fixed by law."

From the above it is clear that the bill about which you inquire is not an indebtedness in which the amount is fixed by law, as referred to in said section, and the payment of the same cannot be made until the claim is allowed by the county commissioners.

While no opinion is expressed herein as to whether or not sixty cents per hour is a proper rate for work of the character described, it must be said that a certain discretion is vested in the county commissioners under the provisions of the section above quoted. As stated in your letter, there was no price fixed for the services, and it is believed that the commissioners may fix a price which in their judgment and discretion is reasonable and proper. In the event that the action of the commissioners in this respect is unsatisfactory, a remedy is provided by section 2461 G. C., whereby the party presenting claim may appeal the matter to the court of common pleas.

In specific answer to your inquiry, you are advised that the county commissioners may properly refuse to allow the full amount of the bill of the character described, notwithstanding it has received the O. K. of the sheriff.

Respectfully,

JOHN G. PRICE,
Attorney-General.

1906.

COUNTY HOME—RIGHTS OF COUNTY AND BENEFICIARIES WHERE
LIFE INSURANCE POLICY IS CARRIED ON LIFE OF INMATE OF
COUNTY INFIRMARY.

1. *There is no authority whereby an inmate of an infirmary and the beneficiaries of a policy insuring the life of said inmate can be compelled to transfer their interests to the county to defray expenses of the county in connection with the burial or care of said inmate.*

2. *Where the insured is an inmate in the county infirmary, the holder and beneficiary of the policy may assign their interests to the county for the purpose of defraying the county expenses in connection with caring for the insured; however, there is no legal method to compel such a procedure.*

3. *In the event the insured is the holder of the policy and has reserved the right to change the beneficiary named therein, he may name the county as such without the consent of the beneficiary.*

4. *Where the insured is not the holder of the policy he cannot in any manner take such action as will bind the holder or beneficiary.*