"1. A judge of the Municipal Court of Cincinnati, under the provisions of Sections 1558-14 and 1558-45, General Code, may legally solemnize marriages and charge the same fee that a justice of the peace may charge, which is three dollars.

2. Such fee so charged by the municipal judge may not be lawfully retained by him, but is required to be paid into the city treasury, the same as other monies received by him in his official capacity."

and to a former opinion of this office which appears in Opinions, Attorney General, 1916, Vol. I, page 177, the syllabus of which reads:

"Judges of the municipal court of the City of Columbus are not authorized to retain the legal fee of $2.00 collected by them for solemnizing marriages. Such fee should be collected by the clerk of the municipal court and paid into the city treasury as other fees and costs collected by him."

It is my opinion that the above quoted sections of the General Code authorize the judge of the Municipal Court of Marion to solemnize marriages the same as justices of the peace might do, and from the provisions thereof it was the intention of the Legislature that said judge may charge the usual fee therefor as charged by justices of the peace.

Specifically answering your first and second questions, it is my opinion that the judge of the Municipal Court of Marion may legally tax a fee of $3.00 for solemnizing marriage.

In answer to your third question it is my opinion that such judge may not legally retain the fees so charged by him, but that the same shall be paid into the treasury of the city of Marion, the same as other monies received by him in his official capacity.

However, if fees have been retained in reliance upon any letter or ruling from my predecessor, such as was the case referred to in Opinion No. 1774, under date of February 28, 1928, then I think that this holding should be treated prospectively only, and no finding made for fees retained in reliance upon such letter.

Respectfully,
EDWARD C. TURNER,
Attorney General.

1780.

JUSTICE OF THE PEACE—JURISDICTION IN MISDEMEANOR CASES.

SYLLABUS:

Concerning jurisdiction of justices of the peace in misdemeanor cases.

COLUMBUS, OHIO, February 28, 1928.

HON. E. A. BROWN, *Prosecuting Attorney, Circleville, Ohio.*

DEAR SIR:—This will acknowledge your letter dated February 21, 1928, which reads as follows:

"Has a justice of the peace final jurisdiction to hear and determine all misdemeanor cases in which a fine *only* is the punishment, and in which the offender does not waive a trial by jury, and does not submit to be tried by the justice of the peace?"

This office has had occasion in a number of recent opinions to construe the several sections of the General Code which relate to the powers and jurisdiction of justices of the peace in misdemeanor cases. I refer to Opinion No. 392, dated April 27, 1927, addressed to the State Board of Pharmacy, Opinion No. 511, dated May 19, 1927, addressed to the Bureau of Inspection and Supervision of Public Offices, Opinion No. 577, dated June 6, 1927, addressed to the Prosecuting Attorney of Sandusky County, Opinion No. 1604, dated January 19, 1928, addressed to the Prosecuting Attorney of Mahoning County, Opinion No. 1625, dated January 26, 1928, addressed to the Prosecuting Attorney of Gallia County and Opinion No. 1665, dated February 3, 1928, addressed to the Prosecuting Attorney of Stark County.

In this connection your attention is directed to the case of *Tari* vs. *The State of Ohio,* 117 *O. S.* 481, reported in Vol. XXVI, The Ohio Law Bulletin and Reporter of February 6, 1928, at page 274, the syllabus of which reads:

"1. Interest of a judge in the decision of a cause pending before him disqualifies him from hearing and determining the cause.

2. Such disqualification is waived unless objection be made thereto at the earliest available opportunity, and if known to the complaining party at or before the trial and if no objection be made in the trial court, will be deemed to be waived.

3. Interest of the trial judge does not render the judgment void but merely voidable."

I am enclosing herewith copies of the opinions referred to. If, after reading these opinions, you have further questions in this regard, I will be glad to answer the same.

Respectfully,
EDWARD C. TURNER,
Attorney General.

1781.

ELECTIONS—CANDIDATE FOR OFFICE OF COUNTY COMMISSIONER FOR BOTH A FULL TERM AND AN UNEXPIRED TERM—HOW BALLOTS ARE PREPARED BY BOARD OF DEPUTY STATE SUPERVISORS OF ELECTIONS.

SYLLABUS:

In a county where there are candidates for the office of county commissioner for both a full term and an unexpired term, it will be necessary for the Board of Deputy State Supervisors of Elections of said county to cause to be properly printed immediately above the names of such candidates the words "Vote for not more than ——