

1552.

SHERIFF CANNOT LEGALLY DRAW COMPENSATION PROVIDED FOR
A COURT BAILIFF.

COLUMBUS, OHIO, June 2, 1924.

SYLLABUS:

A sheriff cannot legally be paid compensation, in addition to his regular salary, as court bailiff.

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

Gentlemen:—

You have requested my opinion on the following question:

“Can a sheriff be appointed by the court as a special bailiff and draw extra compensation for such services, if same is approved by the court?”

It is assumed that you have reference to the appointment of a bailiff by the Common Pleas Court. Section 2833, General Code, which relates to the duties of the sheriff, among other things, provides:

“He shall attend upon the common pleas court and the court of appeals during their sessions, and, when required, upon the probate court.”

There are a number of other sections following which relate to the general duties of the sheriff.

Section 2830 provides for the appointment of deputies. Section 1541 which provides for certain court appointees, among other things, provides for the appointment of:

“A criminal bailiff, who shall be a deputy sheriff and holds his position during the pleasure of the judge or judges of such court. He shall receive compensation to be fixed by such judge or judges at the time of his appointment not to exceed the amount permitted by law to be allowed court constables in the same court, which shall be paid monthly from the county treasury upon the warrant of the county auditor.”

Section 1543 provides:

“The criminal bailiff shall act for the sheriff in criminal cases and matters of a criminal nature in the common pleas and probate courts of such county. Under the direction of the sheriff, he shall be present during trials of criminal cases in such courts and during such trials perform all the duties as are performed by the sheriff. The criminal bailiff shall conduct prisoners to and from the jail in such counties, and for that purpose shall have access to the jail and to the court room, whenever ordered by such courts, and have care and charge of such prisoners when so doing. Under the direction of the sheriff, the criminal bailiff shall convey to the penitentiary all persons sentenced thereto. He shall receive and collect from the state treasurer all costs in such criminal cases in the same manner as the

sheriff by law is required to do, and pay the amount so collected to the sheriff of such county."

Section 1544 provides:

"On the application of the sheriff, in a criminal case, if a court is satisfied that the administration of justice requires an additional bailiff to execute process, it may appoint such additional bailiff as in its discretion may be necessary. His powers and duties shall cease when such case is determined."

Your communication relates to a "special" bailiff. It is assumed that you have reference to a temporary bailiff referred to under the section last quoted.

Section 1545 provides for the bond of the bailiff.

From the foregoing, it is evident that the bailiff is a deputy sheriff and performs similar duties to that of the deputy sheriff, which is in effect the same duties as the sheriff is required to perform. It follows that if the sheriff has sufficient time to perform the duties of a bailiff in connection with his other duties, there would be no necessity for the appointment of such bailiff. In other words, for the sheriff to draw the compensation as a special bailiff would, in effect, be allowing him double compensation for the same services which he is required by law to perform.

Section 2994 provides for the salary of the sheriff, and section 2996 provides that such salary shall be instead of "all fees, costs, penalties, percentages, allowances and all other perquisites of whatever kind."

It is therefore the opinion of this department that the sheriff cannot legally draw the compensation provided for a court bailiff.

Respectfully,

C. C. CRABBE,

Attorney General.

1553.

OFFICERS NOMINATED BY MAYOR AND LATER REJECTED BY COUNCIL AFTER SERVING AS MEMBERS OF BOARD HAVE NO DEFINITE TERM OF OFFICE.

COLUMBUS, OHIO, June 2, 1924.

SYLLABUS:

Officers nominated by the mayor, whose names have never been submitted to the council for confirmation which are subsequently voted upon by the council and rejected, have no definite term of office, and it is not necessary to remove them by quo warranto before the mayor may nominate other officers.

HON. JOHN E. MONGER, *Director of Health, Columbus, Ohio.*

Dear Sir:

I am in receipt of your recent communication as follows: