

trustees of such law library association, but the sum so retained and paid by the clerk of said police court to the trustees of such law library association shall in no quarter be less than 15 per cent of the fines and penalties collected in that quarter without deducting the amount of the allowance of the county commissioners to said judges, clerk and prosecutor.'

I am therefore of the opinion that section 3056 G. C. does apply to fines collected by a clerk of the municipal court of the city of Columbus for offenses and misdemeanors prosecuted in the name of the state."

In comparing the municipal court act of Toledo with the Columbus act it will be observed that the provisions relative to the duties of the clerk are substantially the same; in fact, they are identical in so far as your question is concerned. Therefore, the reasoning of the opinion quoted from in reference to the Columbus act is logically just as applicable to the problem presented in reference to the Toledo act.

In the opinion to which you refer, found in Opinions of the Attorney General, 1919, Vol. 1, p. 1026, it was held:

"In police courts, or municipal courts succeeding such police courts, in the absence of specific provision to the contrary, under section 4599 G. C. the fees and costs imposed and collected by the court in state cases go into the county treasury."

It is believed that an analysis of said opinion will disclose that the same reasoning upon which the above determination was based will support the conclusion that the provisions of section 3056 G. C. are applicable to fines assessed and collected in the municipal court of Toledo.

In view of the foregoing your inquiry is answered in the affirmative.

Respectfully,

JOHN G. PRICE,  
*Attorney-General.*

1850.

COUNTY RECORDER—NOT AUTHORIZED TO CHARGE FEES FOR  
FILING ANNUAL STATEMENTS REQUIRED OF CORPORATIONS  
UNDER SECTION 8639 G. C.—INDEX OF SUCH STATEMENTS  
SHOULD BE KEPT.

1. *The county recorder has not been authorized by statute to charge or receive fees for receiving and filing the annual statements required to be filed in his office by corporations under section 8639 G. C.*

2. *Section 8639 G. C. imposes no duty upon the county recorder to record the annual statements filed in his office by corporations subject to its provisions.*

3. *An index of the annual statements filed with the recorder under section 8639 G. C. should be kept, to the end that the public may have easy access to the information therein set forth.*

COLUMBUS, OHIO, February 8, 1921.

HON. EDWARD C. STANTON, *Prosecuting Attorney, Cleveland, Ohio.*

DEAR SIR:—Your letter of recent date inquiring what fees, if any, should be charged by the county recorder for filing the annual statements required to be

filed by corporations subject to the provisions of section 8639 G. C., and the duty, if any, imposed upon the recorder to keep an index of such statements, etc., was duly received.

Section 8639 G. C., is one of the general statutes governing the incorporation, organization and powers of domestic corporations, and provides, among other things, that corporations whose articles of incorporation contain a provision that each stockholder, irrespective of the amount of stock owned, shall be entitled to one vote, and no more, at an election of directors or upon any subject submitted at a stockholders' meeting, shall annually make and file certain statements with the recorder of the county in which the corporation is doing business. The statute, so far as pertinent to your inquiry, reads as follows:

"Annually, within thirty days after the thirty-first day of December, the directors shall make and file with the recorder of the county in which the corporation is doing business, a statement of its financial condition upon such thirty-first day of December, plainly setting forth its assets and liabilities in detail, the amount of its paid up capital stock, the names of its stockholders, and the number of shares owned by each."

The statutes makes no requirement that the recorder shall charge or that the corporation shall pay a fee for filing the annual statements mentioned, neither does it require or provide that the statements shall be recorded, or that an index thereof shall be kept.

A careful examination has been made of the statutes on the subject of fees and compensation of the county recorder, and nowhere has there been found any provision authorizing the recorder to charge and receive, or imposing upon the corporations any duty to pay, any fee whatever for filing the statements mentioned, and in the absence of a statutory provision to that effect the recorder is without authority to exact or charge a fee therefor.

In *State vs. Lewis*, 22 C. C. 618, 622, the court said:

"It has long since been settled in Ohio that an officer whose fees are regulated by statute can charge fees only for those services for which compensation is fixed by law. Fees are not allowed by implication. There are no constructive fees. The fees given are mentioned or they are not allowed."

In *DeBolt vs. Trustees*, 7 O. S. 237, 239, the court said:

"No officer, whose compensation is regulated by fees, can charge for a particular service, unless the law specifically gives him fees for that service. \* \* \* Fees are not allowed upon an implication;" etc.

In *Anderson vs. Commissioners*, 25 O. S. 13, the court said:

"Where a service for the benefit of the public is required by law, and no provision for its payment is made, it must be regarded as gratuitous," etc.

While the foregoing cases involved claims for compensation, the principle or doctrine therein announced and applied is equally applicable to a state of facts such as is involved in your inquiry, and you are therefore advised that since there is no statute requiring corporations subject to section 8639 G. C. to pay a

filing fee to the recorder at the time of filing the annual statements required by that section, or authorizing the recorder to charge and collect a fee therefor, the statements must be received and filed gratuitously.

You are further advised that the law does not require such annual statements to be recorded. And while no duty is expressly imposed upon the recorder to keep an index, it is suggested, however, that one should be kept, to the end that the public (especially those dealing with the company) may have easy access to the information which section 8639 G. C. requires to be filed for their benefit.

Respectfully,

JOHN G. PRICE,  
*Attorney-General.*

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1851.

COMMON PLEAS COURT—SECTION 13,562 G. C. DOES NOT AUTHORIZE SAID COURT WHEN ACTING AS JUVENILE COURT TO APPOINT AN ATTORNEY TO ASSIST PROSECUTING ATTORNEY IN TRIAL OF JUVENILE CASE.

*Section 13562 G. C. was intended to apply to criminal cases originating in the court of common pleas upon indictment and said section does not authorize the common pleas court, when acting as the juvenile court, to appoint an attorney to assist the prosecuting attorney in the trial of a case brought in said juvenile court under the provisions of the juvenile act.*

COLUMBUS, OHIO, February 8, 1921.

HON. F. M. CUNNINGHAM, *Prosecuting Attorney, Lebanon, Ohio.*

DEAR SIR:—Acknowledgment is made of your letter reading as follows:

“Under section 13562 of the General Code, has the common pleas court authority to appoint an attorney to assist the prosecuting attorney in the trial of a case, where the common pleas judge is acting as judge of the juvenile court under and by virtue of section 1639 G. C.?”

The right of the common pleas judge to exercise, upon proper designation, the jurisdiction of juvenile judge, appears from sections 1639 and 1642 G. C. These sections read thus:

“Section 1639. Courts of common pleas, probate courts, and insolvency courts and superior courts, where established shall have and exercise, concurrently, the powers and jurisdiction conferred in this chapter. The judges of such courts in each county, at such times as they determine, shall designate one of their number to transact the business arising under such jurisdiction. When the term of the judge so designated expires, or his office terminates, another designation shall be made in like manner. In case of the temporary absence or disability of the judge so designated another designation shall be made in like manner to cover the period of such absence or disability.

The words, juvenile court when used in the statutes of Ohio shall be understood as meaning the court in which the judge so designated may be sitting while exercising such jurisdiction, and the words ‘judge of the