

1971.

REWARD — COUNTY COMMISSIONERS MAY OFFER REWARD FOR “DETECTION OR APPREHENSION” OF PERSON OR PERSONS RESPONSIBLE FOR FELONY—UPON CONVICTION MAY PAY REWARD—SECTION 2489 G. C.—MEANING OF WORDS “CHARGED WITH CRIME.”

SYLLABUS:

County commissioners may, under the provisions of section 2489, General Code, offer a reward for the detection or apprehension of any person or persons, known, or unknown, who are responsible for a felony which has been committed and on conviction of such person or persons pay the reward so offered.

Columbus, Ohio, March 5, 1940.

Hon. Harold K. Bostwick, Prosecuting Attorney,
Chardon, Ohio.

Dear Sir:

This will acknowledge receipt of your request for my opinion, which reads as follows:

"On two occasions now we have had serious crimes committed in Geauga County and we have not known the person who committed the crime.

The Commissioners want to offer a reward for the detection or apprehension of the guilty party under Section 2489, General Code, but not knowing who the guilty person is, no one has been 'charged with or convicted of felony,' as the statute requires.

Now, my question for your opinion is, can the commissioners legally offer and pay a reward for the detection or apprehension of a person who has committed a felony, but whose identity is unknown and no one is therefore 'charged with a felony.'

Section 2489, General Code, to which you refer in your letter, reads as follows:

"When they deem it expedient, the county commissioners may offer such rewards as in their judgment the nature of the case requires, for the detection or apprehension of any person charged with or convicted of felony, and on the conviction of such person, pay it from the county treasury, together with all other necessary expenses, not otherwise provided for by law, incurred in making such detection or apprehension. When they deem it expedient, on the collection of a recognizance given and forfeited by such person, the commissioners may pay the reward so offered, or any part thereof, together with all other necessary expenses so incurred and not otherwise provided for by law."

The sole question to be considered herein is whether or not the words "any person charged with * * * felony," as the same appear in the above section, limit the offering and paying of a reward to cases where the identity of the alleged felon is known at the time of making such offer. It will be noted that the statute authorizes the offering of a reward "for the detection or apprehension."

To detect means to discover, to find out, to lay bare or expose; while to apprehend means to lay hold of, to take or seize that which has already been discovered or detected.

Therefore, if the words "detection" and "apprehension" are considered alone, it is apparent that the Legislature manifestly intended to provide for the offering of a reward upon the conviction of a person whose identity remained to be discovered, as well as one whose identity was already known.

A statute under consideration must, however, be construed in its entirety. No provision or part thereof may be disregarded and the meaning of particular words used must be ascertained from a view of the whole statute. It is therefore essential to determine whether or not the words "any person charged with," if applied to the words "detection or apprehension" would in any way limit or restrict the meaning of such words and bring about a construction contrary to that expressed above.

The words "charged with crime" in legal parlance mean charged in the regular course of judicial proceedings. (See *Ex Parte Morgan*, 20 Fed. 298). This, however, seems to be the limited meaning placed upon such expression in connection with an accusation or formal complaint. In Anderson's Law Dictionary, it is stated:

"The expression 'charged with,' as applied to a crime, is sometimes used in a limited sense, intending the accusation of a crime which preceded a formal trial. In a fuller and more accurate sense the expression includes the responsibility for the crime."

In the case of *State v. Ju Nun*, 53 Ore. page 1, it is stated:

"The word 'charged' as applied to criminal proceedings may have different meanings according to the text. It may mean the accusation which precedes the formal trial, or it may mean the responsibility for the crime itself, and, may be applicable to one who has been convicted and is serving a sentence. In common parlance, it signifies the formal commencement of a criminal proceeding, by filing or returning of the accusatory paper."

Of similar import is the statement contained in the case of *State v. Jones*, 91 Ark. 5, wherein it is declared:

"The words 'charged with,' as used in a statute providing that an accessory after the fact is one who, with knowledge that a crime has been committed, harbors or protects the person 'charged with' or found guilty of the crime, cannot be said to have a well-known and established legal signification as applied to criminal offenses, but do not require that a judicial charge be then pending against the principal. The expression is sometimes used in a limited sense, including the accusation of a crime which precedes a formal trial. In a fuller and more accurate sense the expression includes also the responsibility for the crime."

(See also *Drinkall v. Spiegel*, 68 Conn. 441.)

It is a fundamental rule that statutes are to be given a fair and reasonable construction in conformity to their purpose. Clearly, the purpose of the statute in question was to provide through the offering of a reward, additional means for the detection and apprehension of criminals. In order to effectuate this purpose, it would clearly appear that the words "any person charged with" should be construed to mean any person known or unknown who was responsible for the crime. To place a more limited construction thereon would be contrary to the clearly manifested intent of the Legislature.

Specifically answering your question, I am of the opinion that county commissioners may, under the provisions of section 2489, General Code, offer a reward for the detection or apprehension of any person or persons, known or unknown, who are responsible for a felony which has been committed and on conviction of such person or persons pay the reward so offered.

Respectfully,

THOMAS J. HERBERT,
Attorney General.