

by sheriffs for feeding prisoners and other persons confined in the county jail in the larger counties.

For these reasons it is my opinion that the same rule applies to all counties of the state with reference to the allowances made to the sheriff for feeding prisoners and other persons confined in the county jail, except that in certain counties wherein the daily average number of prisoners confined in the county jail during the year next preceding did not exceed twenty in number the allowances so made to the sheriff must be within the limits of fifteen cents and twenty-five cents per meal, and that the sheriff must in all counties, on the fifth day of each month render to the county commissioners an itemized and accurate account, with all bills attached, showing the actual cost of keeping and feeding prisoners and other persons placed in his charge and the number of meals served to each such prisoner and other persons during the preceding month. Allowances made to the sheriff for this purpose must be in accordance with the itemized account so filed by him.

Respectfully,
EDWARD C. TURNER,
Attorney General.

308.

APPROVAL, BOND FOR FAITHFUL PERFORMANCE OF DUTIES—JOSEPH RAYMOND BURKEY.

COLUMBUS, OHIO, April 11, 1927.

HON. GEORGE F. SCHLESINGER, *Director of Highways and Public Works, Columbus, O.*

DEAR SIR:—You have submitted for my consideration an official bond of Joseph Raymond Burkey, given in accordance with the requirements of Section 1182 of the General Code, for the faithful performance of his duties as deputy state highway commissioner.

To this bond is attached a certificate of the surety company to the effect that the person signing said bond in behalf of said company is its attorney in fact, and is authorized to sign an official bond of this nature for the amount therein involved, binding upon said company.

It has been ascertained by this department that the said surety company is authorized to transact its business of fidelity and surety insurance in this state.

Finding said bond in proper legal form, and properly executed, I have noted my approval thereon, and am returning the same herewith to you.

Respectfully,
EDWARD C. TURNER,
Attorney General.

309.

COUNTY BOARD OF REVISION—SECTION 5548, GENERAL CODE, CONSTRUED.

SYLLABUS:

1. *The County Board of Revision is unauthorized to decrease the valuation of property appraised under the provisions of Section 5548, General Code, by the county auditor,*

and approved by the Tax Commission of Ohio, unless the party affected thereby, or his agent, or the county commissioners, prosecuting attorney, county treasurer, any board of township trustees, board of education, mayor or council of any municipal corporation in the county, files with the board a written application therefor, verified by oath showing the facts upon which it is claimed such decrease or reduction should be made.

2. Where valuations made by the county auditor under the provisions of Section 5548, General Code, and approved by the Tax Commission, are decreased by the County Board of Revision without having for consideration proper complaints by the party affected or his agent, the Tax Commission is authorized to order the county auditor to proceed to correct his tax list and duplicate in accordance with the original valuations upon which taxes for the year should be assessed and collected.

COLUMBUS, OHIO, April 12, 1927.

The Tax Commission of Ohio, Columbus, Ohio.

GENTLEMEN:—This will acknowledge receipt of your recent communication concerning the re-appraisal of property in Erie county. You state that the auditor of said county under the provisions of Section 5548, as amended, 111 O. L. 410, caused an appraisement to be made of the real estate of said county, which includes the village of Vermilion. This appraisement was duly submitted to, and approved by the Tax Commission on the 25th of October, 1926, and you submit a copy of the commission's order as of that date.

The order shows that the commission in considering said appraisement of the real estate of the several taxing districts of Erie county, and having before it for consideration the abstract furnished by said auditor showing the valuation of the land and the buildings of said several taxing districts as placed thereon by him in said appraisement, found and determined that the real estate of said county had been assessed at the true value thereof in money, and such assessment and the acts of the auditor with regard thereto were approved.

It is then stated that the commission was advised that property owners of the village of Vermilion were dissatisfied with the appraisement as made by the auditor and approved by the Tax Commission and that the mayor of Vermilion appointed a committee of citizens by whom a new appraisement was made. This appraisement was submitted to and accepted by the Board of Revision and used by the auditor as a basis on which tax has been collected for the first half of 1926, instead of using the appraisement made by the auditor and approved by the commission.

A copy of the entry showing the procedure of the Board of Revision in regard to the appraisement as submitted by said committee is submitted with your communication. This entry shows that at the meeting of the Board of Revision, December 6, 1926, it was stated to the said board that the residents of Vermilion were dissatisfied with the appraisal of the real estate in their village as made by the county auditor, and that the mayor of the village had appointed four citizens as a committee to revise the appraisal as made and that the village council in regular session approved the appointment.

The committees thereupon submitted a revised appraisal of the principal part of the village and requested the board to accept the same. Said entry states that:

“After due consideration, upon motion by Mr. Smith, seconded by Mr. Bower, it was moved and carried that said revision be accepted.”

Your communication then states that the appraisement made by the mayor's committee is the same in the aggregate as that made by the auditor, but to obtain such aggregate it includes certain property of the Vermilion board of education at a value of \$115,250.00 which had been valued by the auditor at \$7,630.00, and that

many other changes appear to have been made by the mayor's committee in the valuations placed on the lands by the auditor.

You then state that:

"The commission feels that the action of the Board of Revision as shown by its entry of December 6, 1926, and of the auditor in collecting tax on the appraisalment made by the mayor's committee is wholly irregular, illegal and unauthorized, and that the same should be vacated and set aside."

The commission's communication then concludes as follows:

"The question presents itself as to the powers of this commission. Has it authority to order the present auditor to proceed to correct his duplicate in accordance with the appraisalment, as made by his predecessor under Section 5548, and to assess and collect tax for the last half of 1926 thereon, making all proper adjustments so as to secure that each taxpayer shall pay in the tax year 1926 his proper taxes when computed on the said original appraisalment as made by the preceding auditor and confirmed by the commission.

The commission will be pleased to have your advice as to its powers to make the order outlined in the last paragraph."

From your communication it appears that all of the proceedings taken by the county auditor under the provisions of Section 5548, General Code, and the orders and directions of the Tax Commission up to and including the certifying of the abstract to the Tax Commission were regular and legal.

The order of the Tax Commission of October 25, 1926, finding and determining that the real estate of said county had been assessed at the true value thereof in money, and approving said appraisalment, when certified to the auditor of Erie county was an order, determination, and direction of the Commission to said county auditor to place upon the tax lists and duplicate of said county said valuations so approved by said Tax Commission.

The procedure to have said valuations revised and modified, after being certified to the county auditor, is provided for in various sections of the General Code; but there is no authority for the procedure said to have been taken by the County Board of Revision of Erie county at its meeting of December 6, 1926.

Section 5609, General Code, provides who may file complaints against valuations or assessments and reads in part as follows:

"Complaint against any valuation or assessment as the same appears upon the tax duplicate of the then current year, may be filed on or before the time limited for payment of taxes for the first half year. Any taxpayer may file such complaint as to the valuation or assessment of his or another's property, and the county commissioners, the prosecuting attorney, county treasurer, or any board of township trustees, any board of education, mayor or council of any municipal corporation, in the county shall have the right to file such complaint. * * * Each complaint shall state the amount of over-valuation, under-valuation, or illegal valuation, complained of, and the treasurer may accept any amount tendered as taxes upon property concerning which a complaint is then pending, and if such tender is not accepted no penalty shall be assessed because of the nonpayment thereof. * * *"

There appears to have been no complaint in proper form filed in this case, but as stated in said minutes of the County Board of Revision:

"The committee thereupon submitted a revised appraisal of the principal part of the village and requested the board to accept the same."

This complaint was, and is insufficient, in that it failed to specify any valuation or assessment complained of, or to state the amount of over-valuation, under-valuation, or illegal valuation complained of, as provided in Section 5609, General Code. The complaint apparently contained none of the essentials provided by said section. It is therefore evident that no legal and valid complaint against the valuation of said several pieces of property in the village of Vermilion was before the said Board of Revision of Erie county at the time of its consideration of the committee's report.

Section 5601 provides that:

"The County Board of Revision shall not decrease any valuation complained of nor reduce the listed amount of any taxable property complained of, unless the party affected thereby, or his agent, makes and files with the Board a written application therefor, verified by oath showing the facts upon which it is claimed such decrease or reduction should be made."

Separate complaints to each individual piece of property must be filed in the form prescribed and properly verified. This is clear from the provisions of Section 5611-1, General Code, which provides that:

"In case of a determination of an appeal from the decision of a County Board of Revision, it shall, by registered mail, certify its action, to the persons in whose name the property is listed or sought to be listed."

It is impossible for the Tax Commission of Ohio to comply with that provision in this case for the evident and apparent reason that the property, the value of which was under consideration, was not listed in the name of the parties who attempted to present the alleged complaint.

There is no authority for the County Board of Revision to increase or decrease the land valuation in any taxing district by a horizontal raise or a horizontal cut; their only authority is to deal with individual tracts of land and to place upon said tracts a valuation based upon the true value in money. After the County Board of Revision has determined said valuation the property owners, if dissatisfied therewith, may appeal to the State Tax Commission and from the decision of said Tax Commission said property owners may file a petition-in-error in the Court of Common Pleas; but if a complaint is not in form and substance as prescribed by the General Code so that the specific property may be ascertained, neither the County Board of Revision, the Tax Commission, nor the Common Pleas Court, can act in the case.

Your specific inquiry is, if the Tax Commission has authority to order the present auditor to proceed to correct his duplicate in accordance with the appraisal as made under Section 5546, General Code, and to assess taxes for the last half of 1926 thereon, making all proper adjustments so that each taxpayer shall pay in the tax year 1926 his proper taxes when computed on the said original appraisal as approved by the Commission.

Section 5624 provides that:

"The Tax Commission of Ohio shall, from time to time, prescribe such general and uniform rules and regulations and issue such orders and instructions not inconsistent with any provision of law, as it may deem necessary, respecting the manner of the exercise of the powers and discharge of the duties of any and all officers, relative to the assessment of property and levy and collection of taxes. It shall cause the rules and regulations prescribed by it to be

observed, the orders and instructions issued by it to be obeyed and the forms prescribed by it to be observed and used."

It is therefore my opinion that the Tax Commission of Ohio is authorized to order the county auditor to proceed to correct his tax list and duplicate in accordance with the appraisal made under the provisions of Section 5548, General Code, and to assess and collect taxes for the last half of the year 1926 thereon, and to make all proper adjustment so that against each taxpayer in any taxing district there shall be charged his proper taxes when computed on the original appraisal as made by said auditor and approved by the Commission.

The County Board of Revision is unauthorized to decrease the valuation of property appraised under the provisions of Section 5548, General Code, by the county auditor, and approved by the Tax Commission of Ohio, unless the party affected thereby, or his agent, or the county commissioners, prosecuting attorney, county treasurer, any board of township trustees, board of education, mayor or council of any municipal corporation in the county, makes and files with the Board a written application therefor, verified by oath showing the facts upon which it is claimed such decrease or reduction should be made.

Respectfully,
EDWARD C. TURNER,
Attorney General.

310.

COUNTY COMMISSIONERS—UNAUTHORIZED TO EXPEND PUBLIC MON-
EYS FOR OLD LADIES HOME WITHIN COUNTY WHEN A COUNTY
HOME ALREADY EXISTS, THE FULL CAPACITY OF WHICH IS NOT
BEING UTILIZED.

SYLLABUS:

Where real estate is devised to a county for one or more of several purposes, including the maintenance and operation of an Old Ladies' Home, the county commissioners are without authority to expend public moneys derived from taxation for the improvement, maintenance and operation of such property as an Old Ladies' Home where there already exists within such county a county home, the full capacity of which is now not being utilized.

COLUMBUS, OHIO, April 12, 1927.

HON. DEANE M. RICHMOND, *Prosecuting Attorney, London, Ohio.*

DEAR SIR:—I acknowledge receipt of your request for an opinion reading as follows:

"In 1915 one Bertha Coover died leaving a will, Item 4 of which reads as follows:

"I give and devise to Madison county, Ohio, for the uses and purposes hereinafter stated the following described real estate to-wit: Being all that parcel of land composed of several contiguous tracts and containing in all about 12 acres situated in the village of London, Madison county, Ohio, and fronting on the east side of North Main street and being all the lands owned by me in that part of said village. The same to be managed and controlled by the county commissioners of said county and to be held and occupied by the