

ing, giving away or passing title, or by the duly authorized agent of such manufacturer, importer, corporation, partnership, association or person.

* *"

While a notary public may not take acknowledgments to instruments in any county other than that for which he was appointed, I am unable to discover any provision of law which would make an otherwise valid attestation void by reason of the fact that the affiant was a resident of another county, state or nation.

Section 6310-11a, General Code, provides that the bill of sale shall be filed in the county "in which passage of title was consummated." The passage of title to personal property is at the time of delivery. Since the entire sale was consummated in Ross County, which is the same county as the residence of the purchaser, it follows that the provisions of either statute (§6310-11a, General Code, or §6310, General Code) are complied with by the filing of the bill of sale in Ross County. It therefore, is unnecessary at this time to attempt to reconcile the apparent inconsistency in the provisions of these sections.

Specifically answering your inquiry it is my opinion that, a bill of sale for an automobile is required by the provisions of Section 6310-13, General Code, to be filed in the county in which the owner resides, and it is immaterial where the bill of sale was made, acknowledged or delivered by the vendor.

Respectfully,

JOHN W. BRICKER,

Attorney General.

858.

JUSTICE OF PEACE—UNAUTHORIZED TO REMIT OR SUSPEND PAYMENT OF FINE FOR COMMISSION OF MISDEMEANOR—MAY SUSPEND IMPOSITION OF SENTENCE AND PLACE DEFENDANT UNDER SUPERVISION OF PROBATION OFFICER.

SYLLABUS:

A justice of peace has no authority to remit or suspend the payment of a fine for the commission of a misdemeanor. However, he may suspend the imposition of sentence and place the defendant on probation under control and supervision of a probation officer with the condition that the costs of prosecution be paid by the defendant.

COLUMBUS, OHIO, May 22, 1933.

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

GENTLEMEN:—This will acknowledge receipt of your request of recent date for a written opinion upon the following question:

"Is it legal for a justice of the peace to suspend all or any part of a fine in a misdemeanor case in which such justice has jurisdiction to assess a fine?"

The establishment of the office of justice of the peace and the jurisdiction,

powers and duties of the office is provided for by Section 1711-1 of the General Code, which was enacted by the 80th General Assembly on April 18, 1913 as Senate Bill No. 273. Prior to January 1, 1913, the Constitution of Ohio provided for the office of justice of the peace, but since the enactment of Section 1711-1 of the General Code, the office has been one created by the legislature and as such, a justice of the peace is clothed with only such powers and authority as is granted him by statute.

Section 3022, General Code, provides as follows:

“In all causes in which a justice of the peace may fine a person charged with the commission of an offense, such justice shall render judgment for such fine, and tax such costs for himself, the constable and witnesses, as are allowed by law.”

Section 13451-7, General Code, provides for the punishment of a person found guilty of a misdemeanor by imprisonment and fine.

Section 13451-8 provides that when a person is convicted of a misdemeanor punishable by either fine or imprisonment, or both, the court may award against such offender a conditional sentence, and order him to pay a fine with or without the cost of prosecution within a limited time to be expressed in the sentence, and in default thereof, to suffer such imprisonment as is provided by law and awarded by the court. This section also provides that the court may place the offender on probation with the condition that he pay a fine and costs or either of them within a limited time and in case of default sentence may be imposed as provided by law.

Section 13454-1, General Code, provides that when a person convicted of a misdemeanor is sentenced to imprisonment in jail or the workhouse, the judge or magistrate shall order him into the custody of the sheriff or constable who shall deliver him to the jailor who shall cause him to be confined in accordance with the sentence. Section 13454-2 provides for the issuing of an execution for a fine and costs where a person is found guilty of a misdemeanor.

Section 13452-1 provides for placing a defendant found guilty of the commission of a misdemeanor upon probation in such cases as the judge or magistrate shall be satisfied that the character of the defendant and the circumstances of the case are such that he is not likely again to engage in an offensive course of conduct, and the public good does not demand or require that he be immediately sentenced. Section 13452-3 provides for the placing of such a person placed on probation in charge of a probation officer. Section 13452-5 provides that the term of probation shall be such as the judge or magistrate shall determine but not exceeding five years.

The suspension of sentence in misdemeanor cases, pending the hearing on a petition to review such conviction, is provided for by Section 13453-1, General Code, and Section 13453-4, General Code, provides that if no petition in error is filed or leave to file a petition in error is refused or the judgment of the trial court is affirmed, the trial court or magistrate shall carry into execution the sentence or judgment.

The question in the instant case was fully discussed in Opinion No. 1740 rendered by my predecessor on April 7, 1930, and reported in Vol. I of the Attorney General's Opinions of that year, page 577, and although it referred to a particular section of the General Code, it covered the authority of a justice of

the peace as to remitting or suspending the payment of a fine. The syllabus of that opinion reads as follows:

"A justice of peace has no authority to remit or suspend the payment of a fine for a violation of Sections 12604 et seq., of the General Code. However, he may suspend the imposition of sentence and place the defendant on probation under control and supervision of a probation officer with the condition that the costs of prosecution be paid by the defendant."

No statutes are found which permit a justice of the peace to remit or suspend all or a part of a fine which has been finally adjudicated. He may suspend execution of sentence pending the hearing on a petition to review the case and may suspend imposition of sentence and place the defendant on probation under the control and supervision of a probation officer with the condition that the costs of prosecution be paid by the defendant and upon the termination of the probation period dismiss the defendant as provided by Sections 13452-1 to 13452-5, General Code.

I would therefore say, in specific answer to your question, that a justice of the peace has no authority to suspend or remit the payment of any fine imposed by the justice of the peace upon any defendant for the commission of any misdemeanor in any case which has been fully adjudicated. However, he may suspend the imposition of sentence and place the defendant on probation under control and supervision of a probation officer with the condition that the costs of prosecution be paid by the defendant and upon the completion of the probation period and the payment of costs, dismiss the defendant.

Respectfully,

JOHN W. BRICKER,
Attorney General.

859.

MARION MUNICIPAL COURT — PROCESSES THEREOF MAY BE SERVED BY SHERIFF OF MARION COUNTY ONLY IN CIVIL CASES—LIMITED TO SERVICE IN COUNTY OUTSIDE LIMITS OF CITY AND TOWNSHIP OF MARION—ENTITLED TO STATUTORY FEES THEREFOR PAYABLE INTO COUNTY TREASURY.

SYLLABUS:

The sheriff of Marion County may serve the processes of the Marion Municipal Court only in civil cases and then only where such service is made in Marion County but outside the limits of the city and township of Marion. The sheriff serving such processes is entitled to the statutory fees for such services which are to be paid into the county treasury.

COLUMBUS, OHIO, May 22, 1933.

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

GENTLEMEN:—Your request for my opinion reads as follows: