

1632.

SHERIFF—MAY NOT CHARGE FEES FOR SERVING SUBPOENAS ON WITNESSES FOR GRAND JURY—COUNTY COMMISSIONERS SHALL ALLOW SHERIFF ACTUAL RAILROAD AND STREET CAR FARE AND TELEPHONE TOLLS FOR SUBPOENAING SUCH WITNESSES.

1. *Since the repeal of section 2846 G. C. (108 O. L. Part II, p. 1203) fees for serving subpoenas on witnesses for the grand jury may not be charged by the sheriff.*
2. *The county commissioners shall allow the sheriff his actual railroad and street car fare and telephone tolls for subpoenaing such witnesses.*

COLUMBUS, OHIO, October 27, 1920.

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

GENTLEMEN:—Receipt of your letter which is here reproduced is acknowledged:

"We respectfully request your written opinion upon the following matter:

Section 13563 General Code provides as follows:

'When required by a grand jury or prosecuting attorney, the clerk of the court in which such jury was impaneled, shall issue subpoenas and other process to any county to bring witnesses to testify before such jury.'

Section 2846 G. C., before its repeal in House Bill 294 provided that the fees of the sheriff for serving subpoenas for grand jury witnesses shall be paid out of the county treasury upon the certificate of the proper officer of the court in which the services were rendered. It is the opinion of this bureau that since the repeal of section 2846 G. C., there is no provision to pay the sheriff for serving grand jury witnesses even if the service is made by the sheriff of one county for the benefit of some other county in the state but that he can be reimbursed for the expense of so doing under provisions of section 2997 G. C., as amended, 108 O. L. Part II, page 1218 by the county commissioners of his county in his quarterly expense account, no matter if he served subpoenas for the benefit of some other county.

Question: Are we correct in this view of the matter?"

Under section 13563 G. C. it is the duty of the clerk of the court to issue subpoenas and other process for the grand jury or the prosecuting attorney, and, of course, it follows that it is the duty of the sheriff of the county in which such processes or subpoenas are issued to serve the same.

Section 2997 G. C., as amended in 108 Ohio Laws, Part II, page 1218, reads in part as follows:

"In addition to the compensation and salary herein provided \* \* \* the county commissioners shall allow the sheriff his actual railroad and street care fare and telephone tolls expended in serving civil processes and subpoenaing witnesses in civil cases and before the grand jury \* \* \*."

This statute gives express authority for the payment of the necessary expenses of the sheriff in serving subpoenas for grand jury witnesses, and makes it mandatory for the county commissioners to pay such expenses. Since the repeal of section 2846 G. C. there is no law providing authority for the sheriff to charge the customary legal fees for subpoenaing witnesses for a grand jury or for the prosecuting attorney. Specific authority is required to charge fees. The fact that one sheriff

may ask a sheriff of another county to serve subpoenas for him offers no reason to charge fees not specifically allowed by the law to either one. Such method is to be commended in the interest of economy since that practice results in a saving of necessary expenses the law allows to be paid.

Therefore, it is the belief of this department that your construction of the law as stated in your letter is the correct one and your question is answered in the affirmative.

Respectfully,  
 JOHN G. PRICE,  
*Attorney-General.*

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1633.

APPROVAL BONDS OF VILLAGE OF BEXLEY, OHIO, IN AMOUNT OF \$98,000 FOR SEWER IMPROVEMENTS.

*The Industrial Commission of Ohio, Columbus, Ohio.*

COLUMBUS, OHIO, October 27, 1920.

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1634.

APPROVAL, DEFICIENCY BONDS, VILLAGE OF SHAWNEE, OHIO, IN AMOUNT OF \$10,000.

*Industrial Commission of Ohio, Columbus, Ohio.*

COLUMBUS, OHIO, October 28, 1920.

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1635.

APPROVAL, ABSTRACT OF TITLE, PREMISES SITUATED IN FRANKLIN COUNTY, OHIO, LOT NUMBER TWENTY-TWO WOOD BROWN PLACE.

COLUMBUS, OHIO, October 28, 1920.

HON. CARL E. STEEB, *Secretary, Board of Trustees, Ohio State University, Columbus, Ohio.*

DEAR SIR:—You have submitted an abstract, which was last continued by John K. Kennedy, attorney at law, on October 25, 1920, inquiring as to the status of the title to the following described premises as disclosed by said abstract:

Situate in the county of Franklin, in the state of Ohio, and in the township of Clinton, and being lot number twenty-two (22) in Wood Brown Place subdivision as the same is numbered and delineated on the recorded plat thereof of record in Plat Book 5, page 196, recorder's office, Franklin county, Ohio.

It is believed that said abstract, with the continuations thereto, shows the title to said premises to be in the name of Hattie Fahner on October 25, 1920, the date of the last continuation, subject to the following incumbrances: On page 20 a mort-