

which he does not reside shall receive his actual and necessary expenses while so holding court in the county in which he does not reside, payable out of the state treasury; also, that he shall receive a per diem of twenty dollars for each day's service in a district other than his own, this to be paid from the treasury of the county to which he is so assigned.

Thus it is seen that the salary of a judge of the court of appeals is derived from two sources, the state and the county, but that his expenses come from one source, the state.

It is stated in 23 American and English Encyclopaedia of Law, 2nd Edition, Vol. 23, page 389:

"Where the law requires an officer to do what necessitates an expenditure of money for which no provision is made he may pay therefor and have the amount allowed him."

Throop on Public Offices, Section 495, states:

"A public officer is entitled to receive from the public authority which he represents reimbursement for extraordinary expenses necessarily incurred by him, in the course of or in consequence of the discharge of his official duties, and not intended to be covered by the compensation allowed to him, the rule in this respect being the same as in cases of private agency."

It will be observed that Section 1518, *supra*, provides for organization, election of a chief justice and secretary, and that the body so constituted must "issue an order" fixing the time and place for holding court.

If the meeting provided in Section 1518, *supra*, may be construed as a session of court, then undoubtedly the payment of traveling expenses of the judges attending such session, and who do not reside in Franklin county, is provided for in section 2253-3, *supra*.

By specific provision of law, it is made mandatory that the judges meet annually at a place other than the place where their retaining official duties are transacted, and I believe this sufficient to justify the payment from the state treasury of the expenses incident thereto.

Specifically answering your question, therefore, I am of the opinion that judges of courts of appeals, meeting once a year at Columbus, under the provisions of Section 1518, General Code, for the purpose of electing a chief justice, are entitled to compensation for expenses so incurred.

Respectfully,
GILBERT BETTMAN,
Attorney General.

1179.

APPROVAL, BONDS OF HAMILTON COUNTY—\$329,227.22.

COLUMBUS, OHIO, November 12, 1929.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.