

2986.

PREMIUM ON BOND FOR COUNTY OFFICER—PAYABLE FROM COUNTY FUNDS.

SYLLABUS:

The county may properly pay from the county funds the premium upon a bond of a public officer which has been duly executed by a licensed surety company.

COLUMBUS, OHIO, December 7, 1928.

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

DEAR SIR:—Acknowledgment is made of your communication which reads:

“Will you please advise me if you have any opinions on the question of whether the county may pay out of county funds premiums on surety bonds for county officers?”

The question you present necessitates a consideration of Section 9573-1, General Code, which provides:

“The premium of any duly licensed surety company on the bond of any public officer, deputy or employe shall be allowed and paid by the state, county, township, municipality or other subdivision or board of education of which such person so giving such bond is such officer, deputy or employe.”

In an opinion, Opinion No. 1599, issued by me on January 19, 1928, and also in Opinion No. 2900, issued on November 20, 1928, consideration was given to this question. The syllabus of Opinion No. 2900, reads as follows:

“When the county treasurer gives an official bond signed by a duly licensed surety company, the county commissioners are authorized to pay the premium therefor out of the general funds of the county.”

In the opinion last mentioned reference was made to the case of *Outcalt vs. Umer*, decided by the Court of Common Pleas of Hamilton County upon demurrer, wherein the court indicated that said statute was unconstitutional. It was pointed out, however, in said Opinion No. 2900, that although final judgment had been rendered in the Court of Common Pleas, the cause was still pending in the Court of Appeals of said county. In view of the circumstances it was not deemed advisable to follow the decision of said lower court, and insofar as it has come to my attention the Court of Appeals has not decided the question. Copies of Opinions Nos. 1599 and 2900 are herewith enclosed.

You are therefore advised, in specific answer to your inquiry, that the county may properly pay from the county funds the premium upon a bond of a public officer, in case the bond has been duly executed by a licensed surety company.

Respectfully,
EDWARD C. TURNER,
Attorney General.