

1078.

COUNTY SURVEYOR—ARBITRATOR UNDER SECTION 6563-27 G. C.—  
ACCOUNT TO COUNTY FOR FEES RECEIVED.

*A county surveyor who served as arbitrator under the provisions of section 6563-27 G. C. should account to his county under the provisions of section 7181 G. C. for all fees or allowances received in connection with said services.*

COLUMBUS, OHIO, March 13, 1920.

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

GENTLEMEN:—Receipt is acknowledged of your letter of recent date reading as follows:

“We respectfully request your written opinion upon the following question:

The surveyor of ‘A’ county was appointed by the governor as arbitrator under the provisions of section 6563-27 G. C., and as such drew compensation from ‘B’ and ‘C’ counties to the amount of \$200.00. In view of opinions of attorney-general to be found in the Opinions of Attorney-General for 1916, Volume II, page 1790, and the Opinions of Attorney-General for 1917, Volume II, page 1921, is the county surveyor, who acted as such arbitrator, to account to ‘A’ county for his earnings as such arbitrator under the provisions of section 7181 of the Grneal Code?”

Section 7181 as amended in 107 O. L. 110, provides as follows:

“The county surveyor shall give his entire time and attention to the duties of his office and shall receive an annual salary to be computed as follows: \* \* \* \* Such salary shall be paid monthly out of the general county fund upon the warrant of the county auditor and shall be instead of all fees, costs, per diem or other allowances, and all other perquisites of whatever kind or description which any county surveyor may collect or receive. The county surveyor shall be the county tax map draftsman, but shall receive no additional compensation for performing the duties of such position. When the county surveyor performs services in connection with ditches or drainage works under the provisions of sections 6442 to 6822 inclusive of the General Code of Ohio he shall charge and collect the per diem allowances or other fees therein provided for, and shall pay all such allowances and fees monthly into the county treasury to the credit of the general county fund. The county surveyor shall do likewise when he performs services under the provisions of 2807 to 2814 inclusive of the General Code of Ohio.”

Inasmuch as you state that the surveyor to whom your letter refers, was appointed under the provision of section 6563-27 G. C., it is assumed that said proceedings took place prior to the enactment of senate bill No. 100, which was filed in the office of the secretary of state July 11, 1919, which seems to have repealed said section.

Section 6563-27 G. C. provided as follows:

“If two commissioners from any county vote against the proportion of the costs and expenses of said ditch improvement which shall be paid by any county, or against the proportion that shall be paid to any county by any

other county in accordance with the provisions of section 24 (G. C. 6563-24) hereof, or in case said joint board shall fail to agree upon any of said matters provided in section 24 (G. C. 6563-24), it shall then be the duty of the secretary of said joint board to notify the governor of that fact, and thereupon it shall be the duty of the governor of the state of Ohio within thirty days to appoint a board of arbitrators of three reputable and experienced civil engineers, neither of whom shall be a resident of any county interested in the proceedings had under this act, nor employed at any time upon any public work done under the direction of the commissioners of any such county."

Section 6563-30 also provided:

"The compensation of each member of the board of arbitrators shall be ten dollars per day and his necessary expenses. Provided, however, such board of arbitrators shall not be engaged in any one proceeding more than twenty days. All other costs, fees and expenses incurred by reason of such arbitration shall be the same as is provided for similar service in proceedings to establish county ditches and shall, together with the expenses and fees of such arbitration be paid as hereinafter provided."

Section 7181, above quoted, specifically provides that when the county surveyor performs services under the provisions of section 6442 to 6822 inclusive, G. C., he shall charge and collect the fees therein provided for, and shall pay all such allowances and fees into the general fund of his county.

In view of the plain provisions of the statute, the conclusion must be that the county surveyor in the case you present should account to his county for fees or allowances in connection with services rendered under the provisions of section 6563-27 G. C.

An examination has been made of the opinions to which you refer, and it is believed that the holding herein is not in conflict with either of said opinions.

Respectfully,

JOHN G. PRICE,  
*Attorney-General.*

1079.

JUVENILE COURT—WHERE MINOR UNDER AGE OF EIGHTEEN COMMITS ACT OF DELINQUENCY—MINOR NOT BROUGHT WITHIN JURISDICTION OF COURT WHILE UNDER EIGHTEEN YEARS OF AGE—COURT WITHOUT JURISDICTION—MINOR ADJUDGED DELINQUENT WHILE UNDER AGE OF EIGHTEEN YEARS—CONFESSES COMMITTING ANOTHER ACT OF DELINQUENCY AFTER EIGHTEEN YEARS OF AGE—WHEN COURT WITHOUT AUTHORITY IN SUCH CASE—WHERE AFFIDAVIT FILED AND PROCESS SERVED BUT CASE CONTINUED UNTIL AFTER MINOR ARRIVES AT AGE OF EIGHTEEN YEARS—JURISDICTION NOT LOST:

1. *Where a minor under the age of 18 years, to wit, of the age of 17 years, commits an act of delinquency, but said minor is not, while under 18 years of age, brought within the juvenile court's jurisdiction by the filing of an affidavit and the service of citation or warrant, said court is thenceforth without jurisdiction to permit the filing of an affidavit against said minor and adjudge him a juvenile delinquent person.*