

necessarily have the control of the amount to be paid to the person or persons for cooking and serving the food to the extent that it is necessary to limit that amount so as to keep the entire cost of feeding the prisoners within the limitations of the statute and might lawfully promulgate a rule requiring requisitions for the cost of such cooking and serving of meals, so that they could properly determine whether or not the limits of the cost of feeding the prisoners, as fixed by statute, will be exceeded.

After all, however, the actual purchases of the food are not made by the commissioners. The mere honoring of a requisition does not constitute the making of a purchase. The actual purchases should be made by the sheriff. The statute, it will be observed, provides that "all food shall be purchased by the sheriff under rules and regulations to be prescribed by the commissioners." Therefore, there is no necessity of complying with the terms of Section 5625-33, General Code, with reference to the certificate of the auditor, when the sheriff's requisition is honored, but when the bills for the purchases are paid, upon warrant of the auditor, as provided by the statute, the terms of Section 5625-33, General Code, must be observed.

I am therefore of the opinion, in specific answer to your questions:

First: A board of county commissioners may lawfully adopt rules requiring the sheriff to file with that board requisitions for the food to be purchased for feeding the State prisoners in the county jail, as well as for the compensation of persons for cooking and serving such food.

Second: The authority given to county commissioners, by the provisions of Section 2850, General Code, to prescribe rules and regulations with reference to the sheriff purchasing food for State prisoners and other persons confined in the county jail, does not extend to the making of rules regulating the diet of such persons or prescribing the menu to be served. In the absence of rules and regulations with reference to diet made by the Common Pleas Court as prescribed by law, the sheriff should be the judge of what should be included in such menu, so long as the cost thereof is kept within the limits allowed by law.

Respectfully,  
GILBERT BETTMAN,  
*Attorney General.*

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APPROVAL, NOTES OF BENNINGTON TOWNSHIP RURAL SCHOOL  
DISTRICT, MORROW COUNTY, OHIO—\$50,000.00.

COLUMBUS, OHIO, April 24, 1929.

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