

sponding excess in the other ingredients claimed on the basis of the following equivalents in value: One part of ammonia shall be deemed equivalent to three parts of available phosphoric acid; one part of ammonia shall be deemed equivalent to three parts of potash; one part of ammonia shall be deemed equivalent to six parts of insoluble phosphoric acid from animal matter; one part of ammonia shall be deemed equivalent to twelve parts of insoluble phosphoric acid from mixed animal and mineral matter; in bone or tankage one part of ammonia shall be deemed equivalent to five parts of total phosphoric acid."

From the plain terms of Section 1151, *supra*, it is apparent that so far as the certificate, which a manufacturer or seller of fertilizer is required to affix to each package showing the chemical analysis of the contents of the package or commercial fertilizer is concerned, the minimum percentage guaranteed of ammonia may be stated either in terms of ammonia alone, or, after so stating it, the nitrogen equivalent to the ammonia may also be stated. Clearly, if the nitrogen is stated and its equivalent in ammonia follows, the ammonia content may be determined by a simple computation. Inasmuch as the law permits the statement of the ammonia content to be made in either terms of ammonia alone or in terms of ammonia and its equivalent in nitrogen, the statement in terms of nitrogen and its equivalent in ammonia amounts to the same thing as the statement of the contents in terms of ammonia in the first place, and, in my opinion, is a full compliance with the law.

It is, of course, necessary that the ammonia content be stated in terms of ammonia, or that some basis of comparison be fixed whereby the ammonia content in terms of ammonia may be determined, if it is stated in terms of nitrogen, as otherwise, if the chemical analysis, as shown by the certificate be false, no means would exist of computing the number of parts of available phosphoric acid, insoluble phosphoric acid and potash, which Section 1153, *supra*, fixes as the equivalent of one part of ammonia, for the purpose of determining whether or not fraudulent intent may be presumed.

I am, therefore, of the opinion that the chemical analysis to be printed on the certificate, which must be attached to each package of commercial fertilizer manufactured, sold or offered for sale in the State of Ohio, may state the minimum percentage guaranteed of ammonia therein, by so stating it in terms of ammonia alone, or by stating the ammonia content and its equivalent in nitrogen, or the nitrogen content followed by a statement of its equivalent in ammonia.

Respectfully,

EDWARD C. TURNER,
Attorney General.

2659.

MUNICIPAL COURT OF LORAIN—SERVING PROCESS—STATE CASES—
POLICE MAY COLLECT FEES FROM COUNTY—BAILIFF LIMITED
TO CITY COMPENSATION.

SYLLABUS:

1. *In view of the provisions of Section 1579-631, General Code, to the effect that the bailiff of the Municipal Court of Lorain shall receive, in addition to his compensation, his actual expenses incurred in serving process of the court from the city treasury, such section fixing the maximum thereof at \$40.00 per month, such bailiff is not entitled to receive from the county treasury, expenses incurred in serving process of such court in state cases.*

2. *Inasmuch as, under the provisions of Section 1579-630, General Code, every police officer of the City of Lorain is ex-officio a deputy bailiff of the Municipal Court of Lorain, such police officers being wholly salaried minor court officers are, as provided by Section 3017, General Code, entitled to receive in state cases from the county treasury the actual necessary expenses incurred by them in executing warrants to arrest, orders of commitment or other process. In like manner such expenses incurred by such officers shall be paid from the municipal treasury, when incurred in ordinance cases.*

COLUMBUS, OHIO, October 1, 1928.

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

GENTLEMEN:—This will acknowledge your letter of recent date which reads as follows:

“Section 1579-631 G. C.—Section 33 of the Lorain Municipal Court Act, provides, in part, that the Bailiff shall receive from the Treasury of the City of Lorain, in addition to his compensation, his actual expenses in serving processes of Court, not to exceed the sum of \$40.00 per month, payable upon the order of the Municipal Judge.

The Act does not provide for the payment of expenses of Police Officers, who are Deputy Bailiffs.

QUESTION No. 1: May the Bailiff of the Municipal Court receive expenses out of the County Treasury in connection with serving warrants issued by the municipal court in state cases?

QUESTION No. 2: May police officers of the City of Lorain receive their expenses in serving processes of the Court, as provided in Section 3017 G. C., i. e., out of the City Treasury in ordinance cases, and out of the County Treasury in state cases?”

As provided by Section 1579-630, General Code:

“The bailiff shall be appointed by the judge of such court and hold office during the pleasure of the court, and may be removed at any time by the judge of the municipal court.”

Section 1579-631, General Code, in so far as pertinent, provides:

“* * * He (the bailiff) shall perform for the municipal court, services similar to those usually performed by the sheriff for courts of common pleas and by the constable for courts of justices of the peace. Such bailiff shall receive for such compensation not less than eighteen hundred dollars per annum, payable out of the treasury of the City of Lorain in monthly installments as the council may prescribe. * * * The bailiff shall receive from the treasury of the City of Lorain, in addition to his compensation his actual expenses in serving process of the court, not to exceed the sum of forty dollars per month, payable upon the order of the municipal judge.”

Section 1579-630, supra, provides further that:

“Every police officer of the City of Lorain shall be ex-officio a deputy bailiff of the municipal court and the chief of police shall assign one or more

such police officers from time to time to perform such duties in respect to cases within the jurisdiction within said court as may be required of them by said court or the clerk thereof."

Your attention is directed also to Section 3017, General Code, which provides:

"In all state cases any wholly salaried minor court officer charged with the execution of a warrant to arrest or order of commitment shall receive from the county treasury the actual necessary expense of executing such writs upon specifically itemized bills, verified by his oath, and certified to by the proper magistrate, court or clerk thereof, and in like manner such expense shall be paid from the municipal treasury when incurred in ordinance cases."

You will note that the allowance for actual necessary expenses, provided for by Section 3017, *supra*, is not a "fee" for official service, as that term commonly is used, but a reimbursement to such officers for actual necessary expenses incurred in executing a warrant to arrest, an order of commitment or other writ.

It is manifest that Section 3017, *supra*, is a general act dealing specifically with the right of wholly salaried minor court officers in state cases to be reimbursed from the county treasury for the actual necessary expenses incurred in executing warrants to arrest and orders of commitment.

Section 1579-631, *supra*, is a part of the act creating the Municipal Court of Lorain and provision is therein made for compensating the bailiff for his actual expenses incurred *in serving process* of that court.

In the case of *City of Cincinnati vs. Holmes*, 56 O. S. 104, Judge Minshall, at page 115, adverts to the following rule of construction:

"I know of no rule of construction of statutes of more uniform application than that later or more specific statutes, do as a general rule, supersede former and more general statutes, so far as the new and specific provisions go."

The general rule upon this subject as stated in 36 Cyc. 1151, is as follows:

"Where there is one statute dealing with a subject in general and comprehensive terms and another dealing with a part of the same subject in a more minute and definite way the two should be read together and harmonized, if possible, with a view to giving effect to consistent legislative policy; but to the extent of any necessary repugnancy between them, the special will prevail over the general statute."

Applying the foregoing rules of construction it is apparent that the Legislature by the terms of Section 1579-631, *supra*, has made provision for the payment of the actual necessary expenses incurred by the bailiff in serving process of the Municipal Court of Lorain in addition to his compensation and has fixed as the maximum amount the sum of forty dollars (\$40.00) per month, which he may so receive.

The expenses provided for in Section 1579-631, *supra*, are for "serving process of the court". In other words, the section seems not alone to contemplate expenses incurred in serving warrants to arrest, orders of commitment and other writs in ordinance cases, but expenses incurred in serving process of the court in any and all cases.

Inasmuch as, by the terms of Section 1579-631, *supra*, provision is made for the maximum amount of expenses, which may be paid each month to the bailiff for serving process of the court in addition to his compensation, it is my opinion that Section 3017, *supra*, has no application in so far as the bailiff in question is concerned.

Specifically answering your first question, therefore, it is my opinion that, in view of the provisions of Section 1579-631, General Code, to the effect that the bailiff of the Municipal Court of Lorain shall receive, in addition to his compensation, his actual expenses incurred in serving process of the court from the city treasury, such section fixing the maximum thereof at \$40.00 per month, such bailiff is not entitled to receive from the county treasury, expenses incurred in serving process of such court in state cases.

As provided by Section 1579-630, supra, every police officer of the city of Lorain shall be *ex-officio* a deputy bailiff of the Municipal Court and the chief of police is authorized to assign one or more such police officers from time to time to perform such duties in respect to cases within the jurisdiction of such court as may be required of them by said court or the clerk thereof. When so assigned such police officers, inasmuch as they are wholly salaried minor court officers, are by the terms of Section 3017, supra, entitled to receive, in state cases, from the county treasury the actual necessary expenses incurred by them in executing warrants to arrest, orders of commitment or other process and in like manner such expenses incurred by such officers shall be paid from the municipal treasury, when incurred in ordinance cases.

Respectfully,

EDWARD C. TURNER,
Attorney General.

2660.

COUNCIL—VILLAGE—MAY EMPLOY ENGINEERING FIRM FOR IMPROVEMENTS.

SYLLABUS:

A firm of engineers may be employed by a village council to do all engineering work in connection with village improvements.

COLUMBUS, OHIO, October 1, 1928.

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

GENTLEMEN:—This will acknowledge your recent communication, which reads as follows:

“Section 4364, G. C., provides for the employment of an engineer in villages.

In Opinion No. 2951, dated November 1, 1925, the Bureau was advised that a village engineer is an officer of the corporation.

QUESTION: May a firm of engineers be employed to do all engineering work for a village?”

The pertinent provisions of the code applicable to your question are Sections 4363 to 4366, inclusive, which sections are as follows:

Section 4363. “The street commissioner shall be appointed by the mayor and confirmed by council for a term of one year, and shall serve until his successor is appointed and qualified. He shall be an elector of the corporation. Vacancies in the office of street commissioner shall be filled by the mayor for the unexpired term. In any village the marshal shall be eligible to appointment as street commissioner.”