"No fire insurance company or other insurer against the risk of fire or lightning, nor any rating bureau, shall fix or charge any rate for fire insurance upon property in this state which discriminates unfairly between risks in the application of like charges and credits, or which discriminates unfairly between risks of essentially the same hazards and having substantially the same degree of protection against fire."

Life insurance companies and fire insurance companies which are not mutual protective associations are therefore prohibited from making any discrimination in the amount of premiums charged from the same risk, but an analysis of section 9589-1 reveals no such prohibition as to the insurance companies included in this statute where the amount of the premium actually charged is plainly specified in the policy and no deduction in any way is made from the amount of premiums payable on the policy. It is significant that although section 9589-1 applies to fire insurance companies, the legislature saw fit in 1917 to pass section 9592-8 definitely prohibiting such companies from unfairly discriminating between risks of essentially the same hazards.

I am of the opinion therefore that the inclusion in a fleet policy of insurance, excepting fire insurance, of automobiles owned by employes of the owner of the fleet of motor vehicles covered by such policy does not violate section 9589-1, General Code, provided the amount of the premium actually charged such employes is plainly specified in such policy and no discount or deduction in any way is made from the amount of premiums payable thereon.

Respectfully,
GILBERT BETTMAN,
Attorney General.

4464.

SALARY—JAIL MATRON—COUNTY COMMISSIONERS MUST APPROPRIATE WITHIN STATUTORY LIMITATION AMOUNT FIXED BY PROBATE JUDGE.

SYLLABUS:

A board of county commissioners must appropriate the amount fixed by the probate judge for the salary of jail matron, providing the same does not exceed the one hundred dollar per month limitation imposed by statute.

COLUMBUS, OHIO, June 30, 1932.

HON. CEDRIC W. CLARK, *Prosecuting Attorney, Pomeroy, Ohio.*

DEAR SIR:—Your recent request for my opinion reads as follows:

"Section 3178, G. C., provides that jail matrons may be appointed by the sheriff on the approval of the probate judge who shall fix the compensation of such matrons not to exceed $100.00 per month, payable monthly from the general fund of such county upon the warrant of the county auditor upon the certificate of the sheriff. Upon the probate judge's fixing the salary of the jail matron at $100.00 a month, can this be re-

duced by the county commissioners or must they appropriate the amount so fixed?"

Section 3178, General Code, reads in part as follows:

"The sheriff may appoint not more than three jail matrons, who shall have charge over and care for the insane, and all female and minor persons confind in the jail of such county, and the county commissioners shall provide suitable quarters in such jail for the use and convenience of such matrons while on duty. Such appointment shall not be made, except on the approval of the probate judge, who shall fix the compensation of such matrons not exceeding one hundred dollars per month, payable monthly from the general fund of such county, upon the warrant of the county auditor, upon the certificate of the sheriff. * * *"

From a reading of the above quoted section, it is apparent that the probate judge is authorized to approve the appointment of the jail matron made by the sheriff, and fix her compensation within the statutory limitation.

In Opinion No. 4178, rendered to the Prosecuting Attorney of Tuscarawas County, under date of March 25, 1932, I held in part that a board of county commissioners must appropriate the amount fixed by the common pleas court for the compensation of a common pleas court stenographer or reporter. The statute in question (Section 1550, General Code) provided in part as follows:

"Each such shorthand reporter shall receive such compensation as the court making the appointment shall fix, not exceeding three thousand dollars each year in counties where two or more judges of the common pleas court hold court regularly, and in all other counties not more than two thousand dollars. * * *"

In such opinion, I called attention to the case of *State ex rel. Justice* vs. *Thomas,* 35 Ohio App. 250, in which case the court stated at page 256:

"When the common pleas court judge appoints a court constable and criminal bailiff and fixes the compensation, as he is expressly authorized to do under Sections 1541, 1692 and 1693, General Code, it has been fixed by a person or tribunal authorized so to do, and it is an act equivalent to and on a parity with a fixing by law.

The county commissioners are bound to accept this act of a common pleas court judge, who is authorized to fix the compensation by law, in the same manner as if it had been fixed by statutory enactment."

See also *Jenkins, Aud.* vs. *State ex rel.,* 40 O. App. 312.

An examination of Sections 1541, 1692 and 1693, General Code, which were under consideration in the above case, discloses that the sections relative to the method of appointment and compensation of a court constable and court bailiff are analogous to the provisions of Section 3178, General Code, relative to the appointment and compensation of a jail matron.

Applying the reasoning of the case of *State ex rel. Justice* vs. *Thomas, supra,* to the situation in question, it follows that a board of county commissioners must appropriate the amount fixed by the probate judge for the salary of jail matron,

providing the same does not exceed the one hundred dollar per month limitation imposed by statute.

In this respect it should be noted that the salary of a jail matron need not necessarily be paid from a specific appropriation for such purpose. In Opinion No. 3159, issued under date of April 17, 1931, I held that the same may be payable from the general fund for "deputies and assistants" of the sheriff's office. However, as is apparent from the foregoing, an allowance must be made for such salary in some appropriate fund.

Respectfully,
GILBERT BETTMAN,
Attorney General.

4465.

APPROVAL, AMENDED CONTRACT BETWEEN STATE OF OHIO AND VILLAGE OF MARYSVILLE, OHIO, FOR THE DISPOSAL OF SEWAGE FROM OHIO REFORMATORY FOR WOMEN.

COLUMBUS, OHIO, June 30, 1932.

HON. JOHN MCSWEENEY, *Director of Public Welfare, Columbus, Ohio.*

DEAR SIR:—You have submitted for my opinion and approval an amended contract between the State of Ohio, acting by the Director of Public Welfare, for the Ohio Reformatory for Women, and the Village of Marysville, Ohio. This contract amends a prior contract entered into by the Building Commission of the Ohio Reformatory for Women and the Village of Marysville, on December 22, 1913, for the disposal of sewage from said reformatory through the disposal plant of said Village.

An examination of House Bill No. 526 of the 89th General Assembly (114 O. L. 113), discloses that the Director of Public Welfare is authorized to amend the old contract on such terms and conditions as may be agreed upon, subject to approval as now provided by law. Section 1809-1, General Code, provides that a contract of this nature shall be approved by the Governor and the Attorney General.

Inasmuch as the terms of the contract agreed upon appear to be reasonable and the contract appears to be in proper legal form and the Governor has approved it, I have this day noted my approval on said contract and am returning the same herewith to you together with all other data submitted in connection therewith.

Respectfully,
GILBERT BETTMAN,
Attorney General.