

1400.

APPROVAL, BONDS OF THE CITY OF JACKSON, JACKSON COUNTY—  
\$4,400.00.

COLUMBUS, OHIO, December 19, 1927.

*Industrial Commission of Ohio, Columbus, Ohio.*

1401.

PROSECUTING ATTORNEY—ASSISTANT COUNCIL MAY BE APPOINTED BY COURT OF COMMON PLEAS—COMPENSATION FIXED BY COUNTY COMMISSIONERS—RELATIVE AUTHORITY OF COMMON PLEAS COURT AND COUNTY COMMISSIONERS, DISCUSSED:

**SYLLABUS:**

1. *A court of common pleas may appoint counsel to assist the prosecuting attorney, under and by virtue of Section 13562, General Code, without first consulting the board of county commissioners as to whether or not any appropriation previously has been made for compensating such appointee. The allowance of such appointee's compensation, and the fixing of the amount thereof, rests entirely in the discretion of the county commissioners; and the same can not be paid unless an appropriation has been made therefor.*

2. *Under the provisions of Section 13618, General Code, the amount of compensation to be paid by the county to an attorney under appointment by the trial court for the purpose of defending an indigent prisoner, is such sum or sums as the commissioners of said county, in the exercise of their discretion may allow, subject to the limitations set out in said section.*

3. *County commissioners, by virtue of the authority vested in them to fix the amount of appropriations, as provided for in Sections 5625-29, et seq., General Code, have it within their power to regulate the aggregate amount to be expended by the prosecuting attorney, in any one year, of the allowances made to him under the authority of Section 3004-1, General Code. If the court, in fixing an allowance under Section 3004-1, General Code, fixes it in excess of the amount appropriated, and the county commissioners do not within the fiscal year amend their appropriation so as to include the amount of such allowance, then, such an allowance is ineffective, and the court is without power to require the commissioners to appropriate monies to cover same.*

COLUMBUS, OHIO, December 19, 1927.

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

GENTLEMEN:—This will acknowledge receipt of your communication requesting my opinion in answer to several questions submitted to you by the county commissioners of Portage County. These questions were submitted to you by letter from the clerk of said board of county commissioners, which letter is as follows: