

"Is it necessary that a person be a resident of a county in order to be eligible to be elected as county superintendent, providing such person is otherwise legally qualified?"

This same question was submitted to my predecessor and answered by him in the negative, in a letter addressed to Hon. Roy R. Roudebush, then Assistant Superintendent of Public Instruction, under date of May 23, 1929. Opinions of Attorney General 1929-1930, page 242.

I adhere to this opinion. Your question is answered in the negative.

PRISON, INDIANA STATE: Payment of expenses of witnesses in connection with Indiana State Prison.

March 13, 1933.

Walter H. Daly, Warden,
Indiana State Prison,
Michigan City, Indiana.

Dear Sir:

In answer to your letter of March 10, 1933, inquiring as to whether or not, under section 2289 Burns Indiana Statutes of 1926, providing, "The county in which the offense was alleged to have been committed shall pay the actual and necessary expense of producing, keeping and returning such witness," the Indiana State Prison is entitled to charge the county in which the offense was alleged to have been committed a per diem for the services of the officer, who produces the convict in court, to testify as a witness. It is my opinion that so long as the charge made does not exceed the actual per diem paid by the Indiana State Prison to the officer, it is a proper charge against the county.

The statute provides that the county shall be liable for the actual and necessary expense of producing and returning such witness. It is necessary that the prison employ some person to produce the prisoner or delegate one of its own officials to produce the convict in court for the purpose of testifying. Therefore, it is my opinion that the per diem actually paid such officer by the prison, is an actual and necessary expense and a proper charge to be made against the county in which the offense is alleged to have been committed and that the Indiana State Prison is entitled to recover the actual per diem so paid.