

help, expenses of the county agent, mileage, rent or other incidental expenses. The Act then further provides that the county council may make additional appropriation for the salary and other additional expenditures.

It is my opinion that the county council is given a mandate by this statute to appropriate at least \$1,000.00 annually and to require that the same be used in the manner stipulated. They would have authority, under this Act, to pay rent for an office, buy supplies and equipment therefor, hire stenographic help, allow certain mileage charges, postage, telephone or other incidental expenses.

I am informed that in the particular case inquired about the county agent included in his request and was awarded an appropriation with which to buy a typewriter, a mimeograph machine and an appropriation was made for stenographic hire and other incidental items. It is my opinion that the expenditures were proper and that having been so approved, the county council would not now be subject to mandate to make additional appropriations for the office of county agent on the theory that such items as a mimeograph machine and typewriter could not be considered as legitimate expenses for the office of county agent.

ACCOUNTS, STATE BOARD OF: Election sheriffs, whether necessary for sheriff to notify election sheriffs. Fees of sheriff, whether sheriff may collect fees for notifying election sheriffs.

October 14, 1937.

Hon. William P. Cosgrove,
State Examiner,
State Board of Accounts,
Indianapolis, Indiana.

Dear Mr. Cosgrove:

I have before me your letter calling attention to the fact that the sheriff in a certain named county of the state for the years 1935-36 has charged and collected mileage at the rate of six cents per mile for notifying sheriffs who were appointed to serve at the primary and general elections.

In view of the foregoing, you ask for an official opinion in answer to the following questions:

"1. Is it necessary for the county sheriff to notify persons who have been appointed as precinct election sheriffs?"

"2. Is the sheriff entitled to charge and collect mileage at the rate of six cents per mile for such service?"

The answer to both questions, in my opinion, should be in the negative. The sheriff, in the case referred to, doubtless is relying upon the provisions of section 7463 of Burns Annotated Indiana Statutes of 1926 which provides, among other things, that:

"It shall be the duty of the sheriff of each county to appoint, five days prior to each election, two special deputies for each precinct in the county, to be known as election sheriffs, who shall attend the polling places in their respective precincts, from the opening of the polls to the conclusion of the count."

Burns Annotated Indiana Statutes of 1926, Section 7463.

Under the present statutes, however, the county sheriff does not appoint the election sheriffs and has no duty to perform with respect thereto. Section 3 of chapter 150 of the Acts of 1929 provides, among other things, that:

"Such board of election commissioners shall appoint for each precinct in the county two (2) election sheriffs of opposite political faith, who shall attend the polling places in their respective precincts from the opening of the polls to the conclusion of the count."

Section 3 of Chapter 150 of the Acts of 1929, p. 473.

Section 5 of the 1929 Act, *supra*, repeals all laws or parts of laws in conflict with it.

The provision of section 7463, *supra*, above referred to, is no longer the law governing the appointment of election sheriffs. The repealing section of the 1929 Act would clearly operate to repeal such provision.

The statutes already referred to have to do specifically with the election officers at general elections, but section 29-507 of Burns Indiana Statutes, Annotated, 1933, expressly provides that:

“Sheriffs and poll-book holders for such primary shall be appointed in the manner and under the conditions as sheriffs and poll-book holders at regular elections.”

Burns Indiana Statutes, Annotated, 1933, Section 29-507.

It follows that the county sheriff has no duty to perform in the appointment of election sheriffs. There is no statute that I have been able to find that places a duty upon the county sheriff to notify these officials of their appointment; the duty of notification doubtless rests with the board of election commissioners and in the absence of anything to the contrary is embraced in the authority and duty devolving upon such board of election commissioners to make the appointment.

Both questions are answered in the negative.

TEACHERS' RETIREMENT FUND, INDIANA STATE: Liability of trustees on official bonds for payment of amount deducted from teachers' salaries.

October 19, 1937.

Robert B. Hougham, Executive Secretary,
Indiana State Teachers' Retirement Fund Board,
334 State House,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter in part as follows:

“In checking our records for the past years we find that we have paying officials throughout the state, more specifically trustees of townships, who have failed to remit to this fund deductions made from the teachers' salaries for the benefit of the Indiana Teachers' Retirement Fund.”

You submit the following question:

“The question has arisen, can this board under chapter 102 of the Acts of 1929 obtain judgment against the official's bond for the collection of these amounts, and will such judgment include interest from the time these amounts were due this department?”