

SHERIFF: Sheriff not required to pay for lights, fuel, soap, etc., furnished prisoners out of the fees allowed him for boarding said prisoners. County Court is liable for purchases of necessary supplies to keep the jail in good and sufficient condition.

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January 17, 1935

Honorable Elbert L. Ford
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Kennett, Missouri



Dear Sir:

This will acknowledge receipt of your letter of January 8, 1935, requesting an opinion, which reads as follows:

"I received today the following letter from the County Court.

'We, the County Court, wish you would get us an opinion as to who should pay the fuel, light bills, etc. for keeping prisoners in the County Jail.

The County pays the Sheriff a stipulated amount per day for boarding prisoners. Should this not include lights, fuel, soap, laundry and all incidental expenses?

Please give us this opinion.'

I would appreciate it if you would advise me if the contract for boarding prisoners with the Sheriff includes all the incidental expenses at the jail. I assume this proposition has come up in some other County and you probably have an opinion already written on this.

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Please advise me at your earliest convenience."

I.

Section 11794 Revised Statutes Missouri 1929, provides:

"Hereafter sheriffs, marshals and other officers shall be allowed for furnishing each prisoner with board, for each day, such sum, not exceeding seventy-five cents, as may be fixed by the County court of each county and by the municipal assembly of any city not in a county in this state; Provided, that no sheriff shall contract for the furnishing of such board for a price less than that fixed by the county court."

8 Corpus Juris, page 1130, defines 'board' as used in the above section, as follows:

"That which is served at the board or table, food, especially meals regularly furnished for pay, sometimes including lodging, but often, as in table board, day board, excluding lodging."

We are of the opinion that the fee allowed a sheriff for boarding prisoners is his compensation for feeding said prisoners and he is not required to pay for lights, fuel, soap and other incidentals for his prisoners out of the fees allowed him under the provisions of Section 11794, supra.

II.

Section 8524 Revised Statutes Missouri, 1929, provides:

"There shall be kept and maintained, in good and sufficient condition and repair, a common jail in each county within t is state, to be located at the permanent seat of justice for such county."

Section 8526 Revised Statutes Missouri 1929, reads as follows:

"The sheriff of each county in this state shall have the custody, rule, keeping and charge of the jail within his county, and of all the prisoners in such jail, and may appoint a jailer under him, for whose conduct he shall be responsible; but no justice of the peace shall act as jailer, or keeper of any jail, during the time he shall act as such justice."

The Supreme Court has on numerous occasions held that the sheriff, under the provisions of the above sections, can purchase all supplies necessary to keep the jail in good and sufficient condition, which includes sanitary conditions, and needs no order of the county court to render the county liable for such purchases.

In the case of Harkreader v. Vernon County 216 Mo. 699, the facts were as follows; the Sheriff of Vernon County brought suit against the county in three counts, the first for \$246.15 for gas and water service in the county jail; the second count for \$18.00 for stamps used in his official business, and the third count for \$72.00 for janitor service in his office, all of which sums he had paid out because of the refusal of the county court to supply such water, gas, janitor service and stamps and for which he demanded and was refused reimbursement. He obtained judgment on each count and Vernon County appealed. The Supreme Court examined the judgment of the trial court and Judge Lamm, speaking for the court, at l. c. page 708, said:

"It is written in the statutes that jails should be 'kept and maintained in a good and sufficient condition,' etc. (R. S. 1899, sec. 8104), that is, 'good and sufficient' in a modern sanitary sense, having an eye to the sure results established by scientific investigation of the disease-breeding effects of filth and bad air. That statute is broad enough to cover the extraordinary condition disclosed by this record.

We are driven to the conclusion there was more pique than principle at bottom in the action of the county court.

Let the judgment be affirmed."

In the case of Disinfecting & Mfg. Co. v. Bates County 273 Mo. 1. c. page 305, the court said:

"It is not doubted that the statutes (Secs. 1571 and 1573, R.S. 1909) and the construction thereof by this court in a case to an extent analogous (Harkreader v. Vernon County, 216 Mo. 696) furnish authority to a sheriff of a county to purchase such articles and supplies as are requisite and necessary to keep and maintain the county jail 'in good and sufficient condition and repair.' "

In Sanitary Co. v. Laclede County 307 Mo. 1. c. page 17 and 18, the court, in passing on the authority of the sheriff to purchase necessary supplies to keep the jail in a sanitary condition and render the county liable for such purchases, said:

"The evidence offered by plaintiff tended to sustain its demand and need not be specially noticed. The defendant offered evidence tending to prove that the sheriff, upon whose order the goods were sold and delivered, had no authority to order the same and that they were not needed or necessary. This might be a good defense in so far as the goods sold and delivered for use at the court house and poor farm are concerned. Section 9507 requires that the agent purchasing supplies for the county be lawfully authorized, and this requirement is not done away with, even though the claim may not be defeated, because the prescribed legal steps have not been followed. No question of that sort can be successfully raised as to any part of the goods ordered for and used at the county jail. Under Section 12549 the jail is required to be kept in good and sufficient condition, and under Section 12551 the sheriff of the county has the custody, keeping and charge of the jail. He, therefore, has full authority to purchase all supplies necessary to keep such jail in good and sufficient condition, which includes sanitary condition, and needed no authorization by the county court to render the county liable for purchases for such jail for such purpose. (Harkreader v. Vernon County, 216 Mo. 696.) The sheriff testified that the goods were needed and used at the court house, as well as at the jail. There was no testimony whatever tending to show that the goods ordered were not needed at the jail. Therefore, the circuit court should have directed a verdict for plaintiff, to the extent that such goods were used at the jail, and for that reason the judgment in defendant's favor cannot be sustained."

Honorable Elbert L. Ford

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We are therefore of the opinion that a sheriff has the authority, under the provisions of Sections 8524 and 8526, supra, to purchase all necessary supplies necessary to keep the jail in good and sufficient condition, including lights, fuel and soap, and that the county is liable for such purchases.

Respectfully submitted,

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APPROVED:

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