

been made since the adjournment of the last session of the Senate, when the Legislature is convened in extra session by Executive Proclamation.

In the situation stated, my opinion is that an appointee to the office of State Attorney, who is appointed and commissioned after the adjournment of the last preceding session of the legislature, will hold office by virtue of such appointment only to the end of the next ensuing session of the Senate.

Respectfully submitted,

T. F. WEST,

Attorney General

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**SHERIFFS' FEES WHERE NO INDICTMENT FILED  
—COMMISSIONS ON MONEYS DERIVED FROM  
HIRE OF COUNTY CONVICTS.**

Tallahassee, Fla., April 18, 1916.

*Honorable Park Trammell, Governor,  
Tallahassee, Florida.*

Dear Sir:—

Your communication of the 17 instant received, requesting opinion upon the questions contained in a letter attached thereto from Honorable R. L. Kennerly, Sheriff of Putnam County, reading as follows:

"Please advise me on the following law, as the Auditor and myself disagree on the following questions:

"His ruling is, on Criminal Cases, that when no true Bill is found, that the sheriff is entitled to the costs of Executing the Warrant only, but not entitled to his fees for serving the witnesses in the case,

"As I understand the law in Criminal cases, that if the Courts issue and deliver to the sheriff, warrants and sum-

mons for witnesses in Criminal cases, the sheriff is obliged to serve them, and if so obliged to serve such papers, he is entitled to his fees for serving same. Also the Auditors ruling is, that the Sheriff is not entitled to his any commissions on moneys collected for hire of County Convicts. The Chairman of our Board of County Commissioners instructed me, as Sheriff, to keep an account against the Contractor, to collect the moneys and pay same to the County Treasurer, and for such service was to receive 5% Commission."

Answering the first question, will advise that Section 4070 of the General Statutes governs the payment of costs when no indictment is found in cases previously coming before a Justice of the Peace or a County Judge acting in the capacity of committing magistrates. Said section reads as follows:

"County not to pay costs in cases where information is not filed or indictment found.—Whenever a committing magistrate holds to bail or commits any person to answer to a criminal charge in a county court, a criminal court of record, or a circuit court, and an information is not filed nor an indictment found against such person, the costs of such committing trial shall not be paid by the county, except the costs for executing the warrant."

It is noted that only the "costs for executing the warrant" are required to be paid by the County, and this would not include fees for summoning witnesses in the case in a committing magistrate's court.

Answering the second question, Section 4109 of the General Statutes provides that in the event County convicts are leased "the proceeds arising therefrom shall be paid into the County Treasury as a special fund," etc.

It is seen from the above that the money derived from the hire of convicts is required to be paid into the County

Treasury, and we have no other statute authorizing it to be paid to the Sheriff, nor authorizing the County Commissioners to pay any one a fee for collecting it. This has been the holding of this office for several years.

Respectfully submitted,

T. F. WEST,

Attorney General.

### Opinions to Secretary of State.

#### ACT REQUIRING ONLY ONE LICENSE TAX ON AUTOMOBILES DOES NOT REPEAL ACT REQUIRING REGISTRATION WITH SECRETARY OF STATE.

Tallahassee, Fla., July 8, 1915.

*Honorable H. Clay Crawford,*  
*Secretary of State,*  
*Capitol.*

Dear Sir:—

Yours of the 6 inst., has been received.

I note your inquiry as follows:

“Will you please advise this office if Section 2 of Chapter 6881, approved June 4, 1915, which, after grading the license tax on automobiles according to seating capacity, states ‘The payment of one such County license tax in the State of Florida shall exempt the owner or operator from the payment of any other such County or State license tax during the license year’ repeals Chapter 5437, under which automobiles are registered in this Department.”

You will note that Chapter 6881, approved June 4,