

2183.

COUNTY HOME—SUPERINTENDENT UNAUTHORIZED TO ACCEPT SCRIP ISSUED BY MUNICIPALITIES AND BOARDS OF EDUCATION IN PAYMENT FOR FARM PRODUCTS.

SYLLABUS:

The superintendent of a county home has no authority to sell surplus products raised on the county home farm for scrip issued by municipalities and boards of education.

COLUMBUS, OHIO, January 19, 1934.

HON EMORY F. SMITH, *Prosecuting Attorney, Portsmouth, Ohio.*

DEAR SIR:—I am in receipt of your communication which reads as follows:

“The superintendent of the local county infirmary approached me this morning and stated that there is raised on the county infirmary farm considerable produce, grain and hay and that lately several persons have offered to purchase the same with scrip of the City of Portsmouth and the Board of Education of the City of Portsmouth, and he inquired of me whether or not he would have authority to accept this scrip in payment of these farm products and, if so, what disposition should he make of it?”

I presume that the scrip of the City of Portsmouth and the Board of Education of the City of Portsmouth, referred to in your inquiry, is scrip authorized by virtue of Amended Senate Bill No. 382, a part of which bill reads as follows:

“Section 1. As used in this act, the terms ‘subdivision,’ ‘taxing authority,’ ‘fiscal officers,’ ‘current operating expenses,’ and ‘debt charges’ shall have the meanings respectively assigned to them by the uniform bond act. The term ‘current taxes,’ as used in this act, excludes delinquent taxes and penalties and interest thereon.

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Section 4. Any subdivision which shall be authorized to issue notes pursuant to this act may, by ordinance or resolution of its taxing authority provide for the issuance of notes of said subdivision which shall be serially numbered; shall be in such denominations not less than one dollar or more than fifty dollars, as the chief fiscal officers may determine; shall be due and payable to bearer without interest not later than on or before five years from their date at the treasury of the subdivision issuing them, and shall be signed by or bear the facsimile signatures of the officers of the subdivision authorized to sign bonds; shall be negotiable instruments, and in all respects governed by the laws applicable to negotiable instruments, and be appropriately printed or lithographed by the county auditor. In all respects not otherwise provided in this act, the authorization, execution, and sale of such notes shall be controlled by the provisions of the uniform bond act.

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Section 8. Notes authorized by this act may be negotiated and issued

by a subdivision at not less than their full face value to evidence the indebtedness of such subdivision to any person, firm or corporation to whom it may be indebted for salary of employes for services, wages, and on contracts and other obligations of the subdivision which might otherwise be paid in cash, and shall be received and accepted at their full face value by the treasurer of the county within which they were issued in payment of any and all taxes charged on any duplicate of real estate and public utility property or on the general duplicate of tangible personal property, but excluding special assessments. All of such notes issued which are received by the county treasurer in payment of taxes shall thereupon be used by him at their full face value in making advance payments to or semi-annual settlements with the subdivisions which issued such notes to an amount not exceeding in the aggregate the amount due such subdivision for its current revenues, other than taxes to be received for the payment of debt charges. Such notes shall further be received and accepted at face value by the subdivision which issued them in full payment of any obligation due to such subdivision of whatsoever character. Such notes which have been issued and returned either through the payment or distribution of taxes or the payment of any other obligation to the subdivision which originally issued them, may, if it be so ordered by the taxing authority of such subdivision, be again issued and negotiated by the subdivision in the manner and for the purposes hereinbefore set forth, or the same may be by such subdivision canceled."

With respect to the sale of products of the county home farm not necessary for the use of the county home, I call your attention to Section 2526 of the General Code which reads in part:

"The superintendent, under the direction of the commissioners, *shall sell* all products of the county home farm not necessary for the use of the county home, and pay all *moneys* arising therefrom into the county treasury, at least monthly, to the credit of the county poor fund. * * *"
(Italics the writer's.)

The above statute contemplates the sale of surplus products raised on the county home farm for money and in no real sense of the term can the "scrip" above referred to be denominated as money.

Inasmuch as public officers and boards have only those powers and duties expressly granted them by statute, together with such implied powers as are necessary to carry into effect their express powers and duties, *State ex rel.*, vs. *State Medical Board*, 107 O. S., 20, it is my opinion, in specific answer to your inquiry, that the superintendent of the county home has no authority to sell surplus products raised on the county home farm for scrip issued by municipalities and boards of education.

Respectfully,
JOHN W. BRICKER,
Attorney General.