

sonal to the officer, employe or other person coming within its terms, and ignorance of the law or action taken upon the advice of someone else, be he the lawfully constituted legal adviser of such officer, employe or other person, or not, does not exonerate him from such responsibility or liability. It will be observed upon a reading of the above statute that the liability therein fixed upon a public officer or employe is not predicated upon knowledge or lack of knowledge of his duties. He is presumed to know his duties and the limitations thereof under the law."

From a reading of these two opinions and authorities therein referred to, I am of the opinion that findings for recovery should be made in accordance with the holding contained in Opinion No. 2016, *supra*, in which opinion I concur.

In view of the foregoing, it is my opinion that, for the reasons stated :

Where under authority of Section 7201, General Code, contracts for the purchase of road equipment or machinery are attempted to be entered into by township trustees, and no compliance is made with the requirements of this section, and Sections 5625-33 and 5625-37, General Code, requiring a certification by the proper fiscal officer that funds have been appropriated and are in the treasury to pay such part of the purchase price as is to be paid in cash, and the consent to and approval of such purchase and the terms thereof is not obtained from the county commissioners of the county as required by Section 7201, General Code, any such attempted agreement is void, and findings for recovery should be made against the proper officers for all damages or loss sustained by the township in an amount equal to the full amount of such funds paid on or on account of such void agreement.

Respectfully

THOMAS J. HERBERT,  
*Attorney General.*

919.

---

TOWNSHIP—NOT LOCAL RELIEF AREA SEPARATE AND APART FROM COUNTY LOCAL RELIEF AREA—NOT INDEPENDENT—BOARD OF TOWNSHIP TRUSTEES WHEN AGENT OF COUNTY COMMISSIONERS—DUTIES—LIMITATION TO CONTRACT LIABILITIES—COMPENSATION PAID AS PROVIDED BY SECTION 3294 G. C.

SYLLABUS:

1. *A township, even though the board of trustees thereof, has been selected as an agent of the board of county commissioners under authority of House Bill No. 675 of the 93 General Assembly, may not be considered*

*as a local relief area separate and apart from the county local relief area, and may not exercise functions as an independent local relief authority.*

*2. The board of township trustees when designated as an agent of the county commissioners as an administration of poor relief in the township, may perform only the duties specified in the resolution of county commissioners authorizing their appointment, and may not contract liabilities to be paid from poor relief funds as designed in such act, without the approval of the county commissioners.*

*3. When township trustees have been designated as an agent of the county commissioners in the administration of poor relief under House Bill No. 675, they may not be paid for their services as such agent from poor relief but are entitled to compensation as provided for in Section 3294, General Code.*

COLUMBUS, OHIO, July 21, 1939.

HON. THEODORE TILDEN, *Prosecuting Attorney, Ravenna, Ohio.*

DEAR Sir: I am in receipt of your request for my opinion which reads as follows:

“Reference is hereby made to Substitute House Bill No. 675, pertaining to the administration of poor relief in the State of Ohio.

The Township Trustees and County Commissioners of Portage County have requested that I secure your opinion on certain provisions of this act and which questions are as follows:

(1) May the township upon acceptance by the County Commissioners as an agent of said board, be considered a local relief area separate and apart from the function exercised by the commissioners as relief authority.

(2) What acts may the Township Trustees perform as an agent of the County Commissioners in the administration of poor relief in their township and in particular may they contract liabilities without the acquiescence and approval of the County Commissioners.

(3) When the township trustees have been designated as an agent of the County Commissioners what compensation shall they receive for their services and may they be paid out of township funds and from what fund of the township; ‘if not from any township fund may the commissioners pay the trustees for their services’.”

The terms “local relief authority” and “local relief area” are defined in Section 1 of House Bill No. 675 as follows:

“‘Local relief authority’ means the board or officer required by law or charter to administer or carry on poor relief in a local relief area.

‘Local relief area’ means the taxing district within and for which poor relief funds are expended.”

In order to determine the board or officer that is required to administer or to carry on local relief in a relief area, we must refer to Section 2 of the Act the pertinent part of which reads:

“Commencing on the first day of July, 1939, the territory in each county outside the corporate limits of cities therein shall be a local relief area hereinafter referred to as the ‘county local relief area’, the local relief authority for which shall be the board of county commissioners of the county; and each city shall be a local relief area, the local relief authority for which shall be the proper board or officer of the city; provided, however, that any board of county commissioners, upon request of the township trustees of any township in the county, shall, by resolution adopted at any time after this act becomes effective, designate such township trustees to act as its agents in the administration of poor relief within such township to the extent provided in such resolution. \* \* \*”

There is a well established proposition of law that special officers such as boards of township trustees have no powers except such as are expressly granted them by the statutes creating their offices and such as may be inferred in order to enable them to perform the duties expressly imposed upon them by law. *Peter v. Parkinson*, 83 O. S., 36; *State ex rel. Bentley v. Pierce*, 95 O. S., 44; *Frisbie Company v. East Cleveland*, 98 O. S., 266.

From the language above quoted from Section 2 of the Act it is evident that the powers of the township trustees when designated as agents is “to the extent provided in such resolution”. (The resolution of the board of county commissioners so appointing them as such agents).

It is a well established rule of statutory interpretation that when the language of a statute as adopted by the legislature expresses a clear meaning, courts are not permitted to read any provision appearing in the statute out of such statute nor to read into the statute any provision which does not there appear even though the court may be of the opinion, by reason of information elsewhere acquired that the legislature intended to enact something different. The proposition in such case is not what did the legislature intend to enact but rather what is the meaning that the legislature did, in fact, enact. *Moore v. Givens*, 39 O. S., 661; *Slinguff v. Weaver*, 66 O. S., 621; *King v. Greenwood Cemetery Association*, 67 O. S., 240. The

court cannot make the law, it only decides the meaning of statutes enacted and decides as to the existence of law. *Beaver v. Trustees*, 19 O. S., 97; *Ludlow v. Johnson*, 3 O. S., 553. The Attorney General likewise may merely interpret law, he cannot create it.

Since the legislature has specifically defined "local relief area" in a manner which does not permit the formation of a township into an independent local relief area, I must answer your first inquiry in the negative.

As I have herein pointed out the township trustees, when designated as agent by the board of county commissioners, have only those powers with reference to poor relief, under authority of House Bill No. 675, as are granted them in the resolution of the county commissioners. They may contract no obligations for poor relief of the type provided for by such House Bill except as authorized by such resolution so adopted by the county commissioners. Since the statute specifically directs the manner in which the county commissioners may define the powers of the township trustees as agent such special designation impliedly includes the negative of any other manner of granting such power. *Anderson v. P. W. Madsen Investment Company*, 72 Fed. (2nd) 768, *Botany Worsted Mills v. United States*, 278, U. S., 282. It would appear, therefore, that whether the county commissioners acquiesced in or otherwise approved of an act on the part of the trustees of a township with reference to administration of poor relief would be immaterial. It could neither enlarge nor lessen their rights.

I do not intend herein to give the impression that House Bill No. 675 relieves the township trustees from their duties to render hospitalization or medical services to indigents under authority of Section 3480-1, G. C., nor burial services to indigents under authority of Section 3495-3496, G. C., nor to relieve the township trustees of other duties with reference to indigents not coming within the purview of "poor relief" as found in House Bill No. 675.

It would seem from the language of the Act that the board of county commissioners in the use of their discretion, if so desired, might delegate to the township trustees any of the duties imposing upon them as a county local relief area which they are authorized to perform through an agent within the township for which the trustees have been elected.

However, when it comes to a question of compensation for a public official such as the board of township trustees a more definite question arises, for it is a well established rule of law that unless the statutes authorize compensation to public officials in payment for services required of them by statute, they are not entitled to compensation. The general compensation of township trustees is provided in Section 3294, G. C. which reads:

"Each trustee shall be entitled to one dollar and fifty cents for each day of service in the discharge of his duties in relation

to partition fences, to be paid in equal proportions by the parties, and two dollars and fifty cents for each day of service in the business of the township, to be paid from the township treasury. The compensation of any trustee to be paid from the treasury shall not exceed two hundred and fifty dollars in any year including services in connection with the poor. Each trustee shall present an itemized statement of his account for such per diem and services, which shall be filed with the clerk of the township, and by him preserved for inspection by any persons interested."

This section of the statute was amended by House Bill No. 477, recently enacted by the General Assembly which does not become effective until the second day of September, 1939. Such amendment, however, increases the compensation of township trustees in certain instances, but makes no specific provision for additional compensation by reason of the fact that services are purely for poor relief.

From the language of this section, it is evident that the compensation to be received by the township trustees for the performance of their official duties, is payable only from the general fund of the township and in amount shall be subject to the limits of such section. Any services in excess of the amount that may be compensated from such fund are presumed to be gratuity. Specifically answering your inquiries, it is my opinion that:

(1) A township, even though the board of trustees thereof, has been selected as an agent of the board of county commissioners under authority of House Bill No. 675 of the Ninety-Third General Assembly, may not be considered as a local relief area separate and apart from the county local relief area, and may not exercise functions as an independent local relief authority.

(2) The board of township trustees when designated as an agent of the county commissioners as an administration of poor relief in the township, may perform only the duties specified in the resolution of county commissioners authorizing their appointment, and may not contract liabilities to be paid from poor relief funds as designated in such act, without the approval of the county commissioners.

(3) When township trustees have been designated as an agent of the county commissioners in the administration of poor relief under House Bill No. 675, they may not be paid for their services as such agent from poor relief but are entitled to compensation as provided in Section 3294, General Code.

Respectfully

THOMAS J. HERBERT,  
*Attorney General.*