

At any time prior to the first day of March, ***1935, the county commissioners of any county may, when authorized by the state relief commission expend any part of the emergency relief or the county poor relief excise fund of such county for furnishing work relief and direct relief as defined in this act, to any or all persons in such county who are in a condition requiring it, anything in sections 3476 to 3496, both inclusive, of the General Code, to the contrary notwithstanding."

Since the proceeds of such bonds are paid into the emergency relief fund, both section 7 and section 9 of the Act expressly provide for the use of any part of such proceeds when authorized by the state relief commission for furnishing direct and work relief to any or all persons in a county who are in a position requiring it.

Therefore, I am of the opinion that at any time prior to the first day of March, 1935, the commissioners of a county may, when authorized by the state relief commission, expend any part of the proceeds of bonds issued by such county under the provisions of section 7 of Amended Senate Bill No. 4 of the first special session of the 89th General Assembly, as amended by Senate Bill No. 63 of the 90th General Assembly, and House Bill No. 7 of the first special session of the 90th General Assembly, for furnishing direct or work relief to persons resident of a city within such county who are in a condition requiring it.

Respectfully,

JOHN W. BRICKER,
Attorney General.

2316.

INSANE PERSON—COMMITMENT TO STATE HOSPITAL FROM
COUNTY WHEREIN TEMPORARILY RESIDING — EXPENSES
CHARGED AGAINST COUNTY OF LEGAL SETTLEMENT.

SYLLABUS

By virtue of Section 1950-1, General Code, the Probate Court of a county in which an insane person is temporarily residing may commit such person to a state institution for the insane, but the probate court fees incident to commitment and the expenses of clothing and incidentals furnished such patient at the state hospital for the insane to which such person is committed, should be charged against the county of their legal settlement.

COLUMBUS, OHIO, February 26, 1934.

HON. J. S. HARE, *Prosecuting Attorney, New Philadelphia, Ohio.*

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

"I would like to have your opinion relative to the following:

Ruth Mowls, an alleged insane person, was brought before the Probate Court on a lunacy inquest on January 17th, 1934. It developed during the examination that this woman was living with her husband at

East Sparta, in Stark County, Ohio, until about nine months ago. They had lived in East Sparta for over a year. She then left East Sparta and went to live in Barberton in Summit County, where she stayed about two months. She then came to Newcumberland, in this County, in company with her husband and lived there until about a month ago. She then separated from her husband and went to live in Barberton with relatives.

Under the provisions of Section 1950-1 G. C., to what county should the commitment be charged?"

From the given statement of facts, I assume that R. M., the alleged insane party had a legal settlement in East Sparta, in Stark County, Ohio. She and her husband then moved to and lived in Barberton, Summit County, but lived there only for a period of two months. The alleged insane party then went with her husband to Newcumberland, Tuscarawas County, living there for only a period of a few months. Subsequently, she returned alone to Barberton, Summit County. Under this state of facts R. M., the alleged insane party, has not obtained any new legal settlement since leaving Stark County, inasmuch as neither she nor her husband after living in Stark County resided in any other county for the statutory period (Section 3477, General Code) of twelve consecutive months. Consequently, both the alleged insane party and her husband have retained their legal settlement in Stark County, since they have not acquired any new one. (Section 3479, General Code.)

I call your attention to an opinion of my predecessor found in Opinions of the Attorney General for 1928, Volume 4, page 2469, which held as disclosed by the first branch of the syllabus:

"Except in the case of non-residents of this state, a residence of twelve months in the county of the committing court is necessary to establish the *legal settlement* required to make a person eligible to be committed to a state hospital for the insane by such court." (Italics the writer's).

The above opinion was rendered prior to the enactment of Section 1950-1, General Code, which provides:

"Any insane person having a legal residence in the state of Ohio, but who may be temporarily residing or detained in a county other than that of his legal residence, may be legally committed to a state hospital by a probate judge of the county in which such person is temporarily residing or detained. The department of public welfare shall at once be notified of such commitment, and, through its secretary, or other officer, shall immediately notify the probate judge of the county *in which such person has a legal residence*, of such commitment. The regular probate court fees incident to commitment and the expenses of clothing and incidentals furnished such patient in a state hospital to which he or she has been committed, *shall be charged against the county of his or her legal residence*. The department of public welfare may at its discretion direct the transfer of such patient to another state hospital." (Italics the writer's.)

In an opinion of my immediate predecessor, found in the Opinions of the Attorney General for 1931, Volume 1, page 25, it was held as disclosed by the syllabus:

“When a person has a legal residence in one county of Ohio, and is arrested in another county and detained in jail in the latter county pending action of the grand jury on his case, and while so detained is committed to an institution for the insane under Section 1955-1, General Code, and its related sections, the court costs and incidental expenses under Section 1950-1, General Code, *are properly chargeable to the county in which he has a legal settlement*, notwithstanding said person is released from such institution and sentenced to the penitentiary from said foreign county on the charge for which he was detained.” (Italics the writers.)

At pages 25 and 26 it is stated:

In connection with this inquiry, it may be noted that prior to the enactment of Section 1950-1, General Code, it had been held that a person having a legal settlement in any county of the state could not be committed to an insane hospital from another county. However, Section 1950-1, was enacted apparently for the express purpose of enabling persons to be committed to such institutions from counties other than those in which they have a *legal settlement*. (Italics the writer’s.)

The use of the term “legal residence” in Section 1950-1, was evidently meant in the sense of “legal settlement” as used in the other poor relief laws, requiring a residence for twelve months within the county in order for the cost of care in an institution for the insane to be charged back to the county of “residence” of a person adjudged insane and committed to a state institution for the insane. The cost of care and support in such case which is charged back to a county is of the same generic class as the cost and care of indigent persons.

The above interpretation has been the uniform one of the Department of State Welfare and such an interpretation is also substantiated by Section 1953 of the General Code, which prescribes the requisites of an application for admission of patients to hospitals for the insane among which will be found a necessity for a showing as to legal settlement. This section reads as follows:

“For the admission of a patient to a state hospital for the insane the following proceedings shall be had. A resident citizen of the county in which an insane person has a legal residence, or in which he may be temporarily residing or detained, must file with the probate judge of said county an affidavit substantially as follows:

The State of Ohio.....County, ss:
the undersigned, a citizen ofcounty, Ohio,
 being sworn, says that he believes.....to be insane and in
 need of hospital care and treatment, and that the said.....
 has a *legal settlement* in township in.....
 county, or that the legal settlement is unknown. Dated this.....
 Day ofA. D.

Information shall also be furnished to the probate judge as to whether or not it will be proper to bring such insane person into court,

and as to whether or not by reason of such insanity, his being at large is dangerous to the community." (*Italics the writer's.*)

Specifically answering your inquiry, it is my opinion that under the provisions of Section 1950-1, General Code, the probate court fees incident to commitment and the expense of clothing and incidentals furnished an insane patient at a state institution for the insane should be charged against the county of legal settlement, which under the state of facts presented, is Stark County.

Respectfully,

JOHN W. BRICKER,

Attorney General.

2317.

APPROVAL, A WARRANTY DEED EXECUTED BY KELLY ISLAND LIME AND TRANSPORT COMPANY, CONVEYING TO THE OHIO STATE ARCHAEOLOGICAL AND HISTORICAL SOCIETY TWO PARCELS OF LAND IN VILLAGE OF KELLY ISLAND, ERIE COUNTY, OHIO.

COLUMBUS, OHIO, February 26, 1934.

The Ohio State Archaeological and Historical Society, Ohio State Museum Building, Columbus, Ohio.

GENTLEMEN:—You recently submitted for my examination and approval a warranty deed executed by the Kelly Island Lime and Transport Company, a corporation, by which there are conveyed to the Ohio State Archaeological and Historical Society two parcels of land in the village of Kelley Island, Erie County, Ohio, containing, respectively, .29 and 3.31 acres of land.

From a communication over the signature of H. C. Shetrone, director of your society, it appears that one of these parcels of land is the site of a noted prehistoric picture rock, while the other was the village site of the Erie Nation of Indians who, it is supposed, at some prehistoric time carved the hieroglyphics on the picture rock which is located on the other parcel of land above referred to.

In this view, with respect to the prehistoric significance of the parcels of land here in question, I am of the opinion that you are authorized to acquire the same under the provisions of section 10198-1, General Code, as this section is amended by House Bill No. 277, enacted by the 90th General Assembly under date of March 30, 1933, 115 O. L. 207. And inasmuch as it appears that you are getting this property as a gift from the grantor above named, I do not think the provision in the deed that this property shall revert to the grantor or its assigns in case you use this property for purposes other than as sites of the prehistorical and archaeological monuments above referred to, impairs in any way your right to accept this deed.

An examination of the deed shows that the same has been properly executed and acknowledged, and upon this consideration and those above noted I am approving this deed as appears by my authorized signature endorsed thereon.

Respectfully,

JOHN W. BRICKER,

Attorney General.