

35.

HOSPITALIZATION FOR TUBERCULOSIS DOES NOT CONSTITUTE RELIEF—ONE REMOVING FROM ONE TOWNSHIP TO ANOTHER BECOMES LEGAL RESIDENT THEREIN WHEN.

SYLLABUS:

The granting of hospitalization for tuberculosis by a board of county commissioners is not relief under the provisions of law for the relief of the poor, such as is provided under Section 3479, General Code, and a resident of one township removing to another township within the county and receiving such hospitalization becomes a legal resident of the township to which he removed, upon residing in said township three months, although he has received such hospitalization.

COLUMBUS, OHIO, January 25, 1937.

HON. PAUL D. MICHEL, *Prosecuting Attorney, Marion, Ohio.*

DEAR SIR: I am in receipt of your recent communication requesting my opinion, which reads as follows:

“A family by the name of Rasey has been for a couple years residents of Scott Township, Marion County, Ohio, and on August 15, 1936, they moved to Big Island Township, Marion County, Ohio. They lived in Big Island Township, Marion County, Ohio, until December 1, 1936, when they moved to Claridon Township, Marion County, Ohio. While they were living in Big Island Township between the dates of August 15, 1936, and December 1, 1936, they received no relief or help of any kind except that on August 16, 1936, the county commissioners of Marion County, Ohio, sent one of their children to the tuberculosis hospital and at the same time purchased the boy a full outfit of clothing.

The question is: Which township are they now legal residents of? In other words, would the act of the county commissioners in sending this boy to the tuberculosis hospital and buying him clothing constitute the granting of relief under the statute and therefore relieve Big Island Township from furnishing him further relief and throw the liability for future relief upon Scott Township, where he was formerly a legal resident? Or, would the act of the county commissioners be

considered as not granting relief, as set forth under the statute?"

Section 3479, General Code, defines "legal settlement" as follows:

"A person having a legal settlement in any county in the state shall be considered as having a legal settlement in the township, or municipal corporation therein, in which he has last resided continuously and supported himself for three consecutive months without relief, under the provisions of law for the relief of the poor, or from any charitable organization or other benevolent association which investigates and keeps a record of facts relating to persons who receive or apply for relief."

Particular attention is called to the foregoing statute where the following wording obtains:

" * * * for three consecutive months without relief, under the provisions of law for the relief of the poor, * * *"

The obvious intention of this statute is to prevent indigents, properly charges of one township, from moving into another township and becoming a burden thereon.

In the set of circumstances related in your request, I think the deciding factor is whether hospitalization for tuberculosis by the board of county commissioners constitutes relief, under the provisions of law for relief of the poor.

Reference is made to an opinion of this office appearing in Opinions of the Attorney General for 1934, Vol. III, Page 1664, paragraph 1 of the syllabus therein reading as follows:

"1. The county of legal residence of persons afflicted with tuberculosis should hospitalize such residents. Legal settlement of such persons within the county is not a necessary requirement. The expenses of treatment in the hospital for tuberculosis should be paid by the county of legal residence if such person is indigent."

In the body of the opinion the reasoning upon which the conclusion was based is dispositive of the question here. It is said on page 1667, after referring to Section 3145, General Code:

“ * * * In other words, the laws dealing with the care of the tubercular are not part of the poor relief laws but are laws for the protection of the public health to prevent the spreading of the disease. * * * ”

It is, therefore, my opinion that the family in question, by moving to Big Island Township, has established a residence for the purpose of poor relief in that township and the act of the county commissioners in giving hospitalization to a member of that family suffering with tuberculosis does not constitute the granting of relief under the provisions of law for the relief of the poor.

Respectfully,

HERBERT S. DUFFY,
Attorney General.

36.

COMPLAINT TO DEPARTMENT OF HEALTH—CONCERNING
CONDITION OF A STREAM OR PUBLIC WATER SUPPLY
MUST BE SIGNED HOW—MANDATORY ORDER MAY BE
ISSUED WHEN.

SYLLABUS:

1. *Under the provisions of Section 1249, General Code, a complaint filed with the Department of Health setting forth a condition of stream or public water supply pollution, as provided in such Section 1249, which is signed by fifty or more qualified electors is insufficient to impose upon the Director of Health the mandatory duty to forthwith inquire into and investigate such conditions complained of unless such complaint is signed by fifty qualified electors of any one city, village or township.*

2. *The provisions of Section 1249, General Code, imposing upon the Director of Health the mandatory duty of investigating stream pollution conditions, complained of in writing as set forth in such section, are jurisdictional and no mandatory order as authorized by Section 1251, General Code, may be issued except pursuant to investigation and findings made after the filing of the written complaint provided for in such Section 1249.*

COLUMBUS, OHIO, January 25, 1937.

HON. WALTER H. HARTUNG, *Director of Health, Columbus, Ohio.*

DEAR SIR: You have requested my opinion in two letters of recent