

You state that the insurance money on hand has been paid into the general fund. Section 5625-5, General Code, being part of the Budget Law, provides that the taxing authority of a subdivision may include in the general levy the amount required for the carrying into effect of any of the general or special powers granted to the subdivision, including the construction of permanent improvements. It is obvious, therefore, that this insurance money now in the general fund may be used for the reconstruction of the building in question.

Respectfully,
GILBERT BETTMAN,
Attorney General.

1866.

APPROVAL, BONDS OF SHARONVILLE VILLAGE SCHOOL DISTRICT,
HAMILTON COUNTY—\$1,500.00.

COLUMBUS, OHIO, May 15, 1930.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.

1867.

APPROVAL, BONDS OF HIGHLAND COUNTY, OHIO—\$12,082.75.

COLUMBUS, OHIO, May 15, 1930.

Industrial Commission of Ohio, Columbus, Ohio.

1868.

WRONGFUL COMMITMENT—PERSON PLACED IN STATE HOSPITAL BY
PROBATE JUDGE—NO LIABILITY AGAINST COUNTY.

SYLLABUS:

A county is not liable in damages to one wrongfully committed to a state institution by the Probate Court in that county.

COLUMBUS, OHIO, May 15, 1930.

HON. RAY T. MILLER, *Prosecuting Attorney, Cleveland, Ohio.*

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

“Sometime ago this office rendered an opinion to the Board of County Commissioners of Cuyahoga County, Ohio, of which board we are by law constituted legal advisors.

This opinion dealt with the question of whether there was any liability against the county by reason of a wrongful commitment to the State Hospital by the Probate Judge.

The board has asked us to ascertain whether or not you agree with the opinion so rendered. We are therefore enclosing a copy of our opinion and respectfully request that you advise us whether or not you are in accord with the same."

I note from the copy of your opinion rendered to the county commissioners, in which you advise them that no liability on the county of Cuyahoga exists on account of the matters complained of, you state:

"I understand the basis of the claim to be an alleged wrongful commitment to the State Hospital by the Judge of the Probate Court of Cuyahoga County. It should first be noted that the incident complained of happened some twenty years ago and in such case, it would seem obvious that if there be a liability on the county, some one of our many predecessors in office would have so ruled in that length of time."

In my opinion, you have advised the Commissioners correctly. In the first place, a probate judge, while sitting as a court, and passing on questions properly within his jurisdiction, in no wise acts as the agent of the county. The Probate Court is a branch of the judicial system of the State, made so by Section 1 of Article IV of the Constitution of Ohio, and the Probate Judge represents that court.

I also note you state in your opinion:

"If Miss H., and those interested in her were to present the matter to the General Assembly of Ohio, and they were to enact a statute authorizing the County Commissioners to pay this claim in some stipulated amount, then the County Commissioners would be empowered to pay to Miss H., any sum up to the maximum so fixed by the General Assembly."

I would hesitate to say that the General Assembly could, by any action, impose such a liability on the Treasurer of Cuyahoga County. At any rate, the question is not a "live" one at this time.

Respectfully,
GILBERT BETTMAN,
Attorney General.

1869.

STATE OFFICE BUILDING—COMMISSION'S DUTY TO APPROPRIATE PROPERTY.

SYLLABUS:

1. *Under the provisions of House Bill No. 17, as enacted by the 88th General Assembly, 113 O. L. 57, the Department of Public Works, or the Superintendent of Public Works, has no powers to exercise in connection with the appropriation of lands for the state office building.*

2. *Such powers and duties are imposed upon the State Office Building Commission, which commission when exercising such power, is governed by the provisions of law setting*