

The lease is accompanied by contract encumbrance record No. 17 which has been executed in proper form and which shows that there are unencumbered balances in the appropriation account sufficient in amount to pay the monthly rentals under this lease for the months of April, May and June, 1937. This is a sufficient compliance with the provisions of Section 2288-2, General Code. This lease is accordingly approved by me and the same is herewith returned to you.

Respectfully,

HERBERT S. DUFFY,
Attorney General.

710.

OFFICIALS OF OTHER COUNTIES IN ATTENDANCE AT PROBATION ASSOCIATION MEETING—NO LEGAL OBLIGATION TO FURNISH FOOD IN THE ABSENCE OF STATUTORY AUTHORITY—ANY SUCH LAWFUL CLAIM PAID FROM GENERAL COUNTY FUND.

SYLLABUS:

1. *No legal obligation rests upon a county to furnish food for officials of other counties in attendance upon a Probation Association meeting held in such county in the absence of specific statutory authority to make such expenditure.*

2. *When a lawful claim is presented to a county treasurer for payment, and there is no designation, legal or factual, as to what fund should be charged with its payment, the rule of reason requires that such payment should be made from the general county fund. This rule is gathered from the provisions of Sections 5625-4 and 5625-5, General Code.*

COLUMBUS, OHIO, June 9, 1937.

HON. LEO M. WINGET, *Prosecuting Attorney, Sidney, Ohio.*

DEAR SIR: I am in receipt of your communication of recent date as follows:

“At your earliest convenience, I would appreciate your opinion on the following questions, to-wit:

1. What legal obligation, if any, rests upon a county to provide ‘necessary food, for various county officials

of foreign counties in the state, who are attending a district meeting of the Ohio Probation Association'?

2. If a legal obligation exists against a county to provide 'necessary food, for various county officials of foreign counties in the state, who are attending a district meeting of the Ohio Probation Association' from what funds should it be paid?

Hereto attached is a copy of the communication I received from the County Auditor of this County under date of April 9th, 1937, in which the facts covering the above questions are clearly set forth."

I likewise note the letter of your county auditor inclosed with your communication, to which I shall merely make reference.

I take it from your letter and the enclosure that The Western Ohio Probation Association met in Shelby County on March 31, 1937, and a bill has been rendered by The Hotel Wagner to the County Commissioners in the sum of \$11.87 for "necessary food." Your question is whether there is a warrant in law for its payment. I find no specific statutory authorization for a meeting of the character detailed in your letter and enclosure. Although such meeting had no legal status, it was not unlawful. Undoubtedly its purpose was governmental betterment. Most all county officials have their associations. These associations are voluntary and while they undoubtedly militate for the public good, there is no warrant in law for the payment of the expenses of those who attend. Of course there are some conferences authorized by law, as for instance the welfare conference provided for by Sections 1356 and 1357, General Code. In such case those who attend, upon complying with the requirements provided by law, may have their actual and necessary expenses paid by their respective counties.

The case you present here does not come within either purview. It is not a conference provided by law and I find no provision for payment of attendants at such meeting, taking the cognomen "The Western Ohio Probation Association" and the further fact that the meeting was called by the County Auditor and Judge Robert A. Eshman, to whose name on the voucher is added the abbreviation "Admr."

That this meeting was laudable in that it in all likelihood dealt with the problems of probation and child welfare, I doubt not; and from its nature I would take it that a real benefit redounded to the public.

Shelby County, whatever its social obligation might have been, was under no legal obligation to provide food for those who attended the meeting—but Shelby County was doubtlessly benefited to some extent. The county was given some notoriety that did it no harm.

This office has been reasonably liberal concerning such expenditures as herein described. Shelby County probably felt that she was the hostess on this occasion and was at least morally obligated to entertain her guests at the luncheon. She was modest in her expenditure. Surely there could be no complaint, that 60c per plate was an unreasonable expenditure. This bill has not been paid and you are asking the specific question whether there is authority in law for its payment and I am compelled to answer that there is no such lawful authority.

The answer to your first question makes your second question moot, namely, "from what fund should such bill be paid." However, as this question presents itself quite often, I am giving it consideration.

I find no specific law taking care of the question. In the absence of such specific law we must resort to common sense—which is merely another name for good judgment. Oftimes called the "rule of reason." Giving due consideration to such law as may reflect upon the proposition.

When the county treasurer receives funds without designation, legal or factual, he passes them to the credit of the general fund of the county. Now take the converse of the proposition, viz., when a claim authorized by law is presented to the county treasurer for payment and no specific fund is designated from which payment shall be made, there is but one fund that can be visited, namely, the *county general fund*. The fund created for the purpose of taking care of the general obligations of the county. In my opinion this rule is fortified by Sections 5625-4 and 5625-5, General Code. I quote so much of these questions as I deem apropos:

Section 5625-4, General Code:

"The taxing authority of each subdivision shall divide the taxes levied into the following separate and distinct levies:

* * * * * * * * *

2. The general levy for current expenses within the ten-mill limitation. * * *"

Section 5625-5, General Code:

"The purpose and intent of the general levy for current expenses is to provide one general operating fund derived from taxation from which any expenditures for current expense of any kind may be made * * *."

Respectfully,

HERBERT S. DUFFY,

Attorney General.