

1517.

APPROVAL, NOTES OF BURTON RURAL SCHOOL DISTRICT, GEAUGA COUNTY, OHIO—\$5,482.00.

COLUMBUS, OHIO, September 6, 1933.

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

1518.

TUBERCULAR RELIEF—COUNTY COMMISSIONERS SHOULD RENDER SUCH RELIEF FOR PERSON REQUIRING SAME IN SANATORIUM—WOMAN ACQUIRES LEGAL SETTLEMENT BY MARRIAGE, FOR RELIEF, WHEN.

*SYLLABUS:*

1. *The county commissioners and not the township trustees should render tubercular relief for a person requiring such relief in a sanatorium.*

2. *Where a woman marries a person who has a legal settlement and residence in a county, she thereby acquires by her marriage such legal settlement and residence without living therein for twelve consecutive months without charitable relief.*

COLUMBUS, OHIO, September 6, 1933.

HON. S. L. SUMMERS, *Prosecuting Attorney, Ravenna, Ohio.*

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

“The Clerk of the Board of Trustees of one of the townships of this county has inquired of me with reference to the matter set out in the following paragraphs.

A woman living in Stark County and whose residence in Stark County had been continuous for the past five years, married a resident of Portage County, who, for some time, and at the time of said marriage, was receiving relief from the township in which he was living in Portage County. The marriage was entered into in April of this year and she came to live with her husband in Portage County the latter part of June of this year, he residing in Portage County continuously.

The wife now has contracted tuberculosis and requires medical treatment in a sanatorium.

I request your opinion as to whether or not in the interpretation of Section 3477 of the General Code, the legal settlement as so defined, would create a duty upon the Board of Township Trustees in Portage County to render such relief, the wife not having lived in Portage County for twelve consecutive months without relief.”

Section 3143, General Code, is pertinent to your inquiry. It provides:

“Instead of joining in the erection of a district hospital for tuberculosis, as hereinafter provided for, the county commissioners may

contract with the board of trustees, as hereinafter provided for, of a district hospital, the county commissioners of a county now maintaining a county hospital for tuberculosis or with the proper officer of a municipality where such hospital has been constructed, for the care and treatment of the inmates of such infirmary or other residents of the county who are suffering from tuberculosis. The commissioners of the county in which such patients reside shall pay to the board of trustees of the district hospital or into the proper fund of the county maintaining a hospital for tuberculosis, or into the proper fund of the city receiving such patients, the actual cost incurred in their care and treatment, and other necessities, and they shall also pay for their transportation.

Provided, that the county commissioners of any county may contract for the care and treatment of the inmates of the county infirmary or other residents of the county suffering from tuberculosis with an association or corporation, incorporated under the laws of Ohio for the exclusive purpose of caring for and treating persons suffering from tuberculosis; but no such contract shall be made until the institution has been inspected and approved by the state board of health, and such approval may be withdrawn and such contracts shall be cancelled if, in the judgment of the state board of health, the institution is not managed in a proper manner. Provided, however, that if such approval is withdrawn, the board of trustees of such institution may have the right of appeal to the governor and attorney general and their decision shall be final."

The section above quoted refers both to infirmary inmates and "other residents of the county who are suffering from tuberculosis". This section was last amended by the Eighty-second General Assembly, 107 O. L. 496. It was also amended by the Eightieth General Assembly, 103 O. L. 492, and sections 3139 to 3147, inclusive, are *in pari materia*.

Your inquiry concerns the treatment of a woman who has contracted tuberculosis and requires medical treatment in a sanatorium. I am informed that the County of Portage does not have a county tuberculosis hospital, as provided for in section 3148-1, General Code, nor has the county joined in the erection of a district tuberculosis hospital, as provided for by section 3148, General Code. However, section 3143, *supra*, provides a method whereby the commissioners of a county under such circumstances may provide for the care of the tubercular by contracting with a county, municipal or district hospital, and the section further authorizes the commissioners to provide for the care and treatment of the inmates of the county infirmary or other residents with "an association or corporation, incorporated under the laws of Ohio for the exclusive purpose of caring for and treating persons suffering from tuberculosis", where such institution has been inspected and approved by the state board of health.

From a reading of section 3145 of the General Code, it also appears to be clear that the purpose of these acts is to provide care for patients who are inmates of the county infirmary or residents of the county *in need of such care*. It also appears from the acts that the county commissioners are not to furnish such care to persons who are in such financial condition as to be capable of furnishing such care for themselves. See Opinions of the Attorney General, 1929, Vol. III, page 1780, at page 1782.

Sections 3139 to 3147, inclusive, General Code, indicate that the care of the tubercular in sanatoriums is to be granted by the *county commissioners*. It is there-

fore my opinion that the township trustees could not administer such relief.

You further inquire as to whether the woman in question has the necessary residential requirements to obtain such relief in Portage County, inasmuch as she has not lived in Portage County for twelve consecutive months without charitable relief. In 14 O. Jur., page 579, it is stated:

“It is a general principle of law that a woman by marriage loses her own domicile and acquires that of her husband.”

It is also stated in Opinions of the Attorney General, 1927, Vol. II, at page 1217:

“\* \* \* it is also true that the legal settlement of the husband is the legal settlement of the wife. \* \* \* She (referring to the wife) \* \* \* moved to Summit County where she was married to a person who had a legal settlement in Summit County. The court held (referring to the case of *Board of Commissioners of Summit County vs. Commissioners of Trumbull County*, 116 O. S. 663) that the marriage of the mother to the person who had a legal settlement in Summit County was sufficient to give her a legal settlement in that county \* \* \*. *This was by virtue of the marriage of the mother and did not require a year's residence without assistance therein.*” (Italics and words within parentheses the writer's.)

It is apparent from your inquiry that the husband has a legal settlement and residence in Portage County. The wife, by her marriage and moving into Portage County, acquired the legal settlement and residence of her husband and it is not necessary that she live therein for twelve consecutive months without relief to be eligible for tubercular relief to be furnished by the commissioners of Portage County.

Specifically answering your inquiry, it is my opinion that:

1. The county commissioners and not the township trustees should render tubercular relief for a person requiring such relief in a sanatorium.
2. Where a woman marries a person who has a legal settlement and residence in a county, she thereby acquires by her marriage such legal settlement and residence without living therein for twelve consecutive months without charitable relief.

Respectfully,

JOHN W. BRICKER,  
Attorney General.

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1519.

DELINQUENT TAXES—FORECLOSURE OF TAX LIENS—UNPAID COSTS THEREOF PAYABLE OUT OF GENERAL COUNTY FUNDS WHEN.

SYLLABUS:

*When unpaid costs in an action for the foreclosure of tax liens brought by the county treasurer have been taxed against the county treasurer, by reason of the fact that the premises did not sell at the sale thereunder for an amount sufficient*