

might by charter be performing the duties of such officer. In such case the contract between the city and the State of Ohio, required by Section 1224-1a, would be executed on behalf of the city by the Director of Public Service. Or, if the same is a charter city, such contract should be executed on behalf of such city by the officer having authority under the charter to execute contracts with respect to street improvements.

Respectfully,

EDWARD C. TURNER,  
*Attorney General.*

2560.

POOR—TEMPORARY RELIEF BY TOWNSHIP TRUSTEES—RESIDENTS  
OUTSIDE CITIES—INCLUDES MEDICAL AND SURGICAL AND  
TRANSPORTATION TO HOSPITAL—LAWS TO BE LIBERALLY CON-  
STRUED.

SYLLABUS:

1. *Outdoor relief, that is partial or temporary relief for the poor who reside in townships outside the limits of incorporated cities and who possess the necessary residence requirements as provided by Section 3477 and 3479, General Code, should be furnished by the trustees of the township in which they have a legal settlement.*

2. *The poor laws of the state should be liberally construed so as to accomplish the object and purpose of their enactment.*

COLUMBUS, OHIO, September 10, 1928.

HON. MERVIN DAY, *Prosecuting Attorney, Paulding, Ohio.*

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

"We desire your opinion as to the legality of the payment by the county or by the township of a hospital bill in the sum of \$271.90 and a bill of \$15.00 for conveyance by ambulance from Paulding County to a hospital in Fort Wayne, Indiana, to-wit: St. Josephs Hospital, conducted by Sisters, Poor Handmaids of Jesus Christ, 'Sectarian.'

The following are the facts in the case. On or about October 26, 1927, one R. B. domiciled in Latty Township, Paulding County, Ohio, fell from a building and injured his spine; the injury is said to be a permanent one.

He was taken to the above mentioned hospital in Fort Wayne upon the advice of a Paulding doctor. No official notice was given by the doctor as required by the statute. The doctor brought it to the attention of some of the county officials in an unofficial way and was advised that he should notify the township trustees and that the doctor notified the trustees of an adjacent township and never did notify the trustees of Latty Township. The trustees of course have never warranted the man to the Infirmary Superintendent and in fact so far as I know the trustees of Latty Township do not know anything about the case at the present time.

Having in mind Section 3138-1 and also having in mind that Paulding County has no county hospital and has no contract with any hospital for the care of the indigent sick, would it be legal for the county commissioners to pay these bills or would it be legal for the Township Trustees to pay them. Which in your opinion should pay the bills, Paulding County or Latty Township. The patient is indigent and is unable to pay the bills himself."

Sections 3476 and 3480, General Code, provide as follows:

"Section 3476. Subject to the conditions, provisions and limitations herein, the trustees of each township or the proper officers of each city therein, respectively, shall afford at the expense of such township or municipal corporation public support or relief to all persons therein who are in condition requiring it. It is the intent of this act (G. C. Sections 3476 et seq.) that townships and cities shall furnish relief in their homes to all persons needing temporary or partial relief who are residents of the state, county and township or city as described in Sections 3477 and 3479. Relief to be granted by the county shall be given to those persons who do not have the necessary residence requirements, and to those who are permanently disabled or have become paupers and to such other persons whose peculiar condition is such they can not be satisfactorily cared for except at the county infirmary or under county control. When a city is located within one or more townships, such temporary relief shall be given only by the proper municipal officers, and in such cases the jurisdiction of the township trustees shall be limited to persons who reside outside of such a city."

Section 3480. "When a person in a township or municipal corporation requires public relief, or the services of a physician or surgeon, complaint thereof shall be forthwith made by a person having knowledge of the fact to the township trustees, or proper municipal officer. If medical services are required, and no physician or surgeon is regularly employed by contract to furnish medical attendance to such poor, the physician called or attending shall immediately notify such trustees or officer, in writing, that he is attending such person, and thereupon the township or municipal corporation shall be liable for relief and services thereafter rendered such person, in such amount as such trustees or proper officers determine to be just and reasonable. If such notice be not given within three days after such relief is afforded or services begin, the township or municipal corporation shall be liable only for relief or services rendered after notice has been given. Such trustees or officer, at any time may order the discontinuance of such services, and shall not be liable for services or relief thereafter rendered."

By the terms of Sections 3477 and 3479, as amended, 112 O. L. 157, it is provided that a person shall be considered to have obtained a legal settlement in any county in this state in which he or she has continuously resided and supported himself or herself for twelve consecutive months, without relief under the provisions of law for the relief of the poor, or relief from a charitable or benevolent association which investigates and keeps a record of facts relating to persons who receive or apply for relief, and that a person having a legal settlement in any county in the state shall be considered as having a legal settlement in the township in which he or she last resided continuously and supported himself or herself for three consecutive months, without public relief or relief from a charitable organization such as is described above.

From your statement that the person on account of whom the hospital bills and transportation bills in question were incurred, was at the time domiciled in Latty Township, Paulding County, and was indigent, I take it that he had such a legal settlement in the county and township and was such a person as would be entitled to such relief as our poor laws afford.

While you state that the injury which he received is said to be permanent it does not appear that his physical condition and indigency are such as to call for permanent relief, entire or partial. Your inquiry refers only to the payment of the expenses

immediately incident to care and treatment made necessary on account of injuries received in the accident referred to. Such relief under the poor laws is commonly referred to as outdoor relief or temporary partial relief.

It would appear from the terms of Section 3776, *supra*, that if under the circumstances here stated, such relief is to be extended at all, it is the duty of the trustees of the township in which the injured person resided to extend the relief rather than the county commissioners. In order to make the trustees of a township liable for public relief under circumstances similar to those here under consideration, it is required by the terms of Section 3480, General Code, that complaint be forthwith made to the township trustees by a person having knowledge of the facts or notice in writing be given by the physician called or attending if the payment for medical or surgical services are included within the relief sought, and if such notice be not given within three days after the relief is afforded or services rendered, no liability exists except for relief or services rendered after the notice is given.

In this case, inasmuch as no notice, as required by statute, has at any time been given to the trustees of Latty Township, it would appear that no liability exists against those trustees for the hospital and transportation bills in question unless such right to relief be based on other considerations than the strict letter of the statute.

In this connection your attention is directed to a former opinion of this department rendered under date of June 22, 1927, and reported in Opinions of the Attorney General for 1927, Vol. II, at page 1106. In that opinion there was considered the case of a man whose residence was in Tennessee and who was permanently disabled by the loss of both lower limbs while riding a freight train in Pike County. He was removed to a hospital in Scioto County and the question arose as to whether or not the county of Pike was responsible for his medical, surgical and hospital bills which accrued on account of his injury.

Inasmuch as the man in question was a non-resident of Ohio, had no financial means himself and was totally disabled, it was clearly the duty of the county commissioners of Pike County to extend such relief as the circumstances required if public relief was to be extended at all. It was pointed out in the opinion that under previous opinions of the department it had been repeatedly held that the power and duty to determine whether or not a person should become a county charge is by Section 2544 of the General Code exclusively vested in the superintendent of the County Home, and as the superintendent of the County Home had not at any time formally determined that this man should become a county charge, a situation existed very similar to that confronting us in the present instance, by reason of the terms of Section 3480, General Code, requiring notice to be given to the township trustees in order to charge the trustees with liability for public relief. In the opinion of 1927 above referred to it was stated:

"It is my opinion, however, that the law does not go so far as to require that before necessary medical treatment and hospital services be rendered in an emergency case like the one under consideration, the superintendent of the county home must determine that the person injured requires public relief. To so hold would have the effect of completely denying public relief in cases like the one referred to in your letter, for if the extension of medical and surgical aid and other necessary assistance were not to be granted in cases of serious injury and other emergencies and until the superintendent of the county home could be found and his decision obtained, in many cases the patient would die while awaiting official action."

In the instant case it appears that a serious injury had been suffered by the person in whose behalf these bills were incurred. The need of immediate surgical and medical attention so impressed the physician in charge that he felt that such attention could

not be properly given except in a hospital, and I have no doubt that he acted in good faith and did what he thought to be for the best interests of the patient by ordering that he be sent to a hospital; and inasmuch as there was no hospital available in Paulding County, and the officials of Paulding County had no contract with a hospital for the care of the indigent sick, he ordered the injured person taken to the nearest and best available hospital under the circumstances, and thereafter undertook to advise the public officials of what had been done, although as it turns out, he did not give that notice to the proper officials and strictly in compliance with the statute. The situation in which the injured person and the physician found themselves at the time of this injury might well be termed an emergency, and in my opinion the poor laws providing for relief to indigent persons should not be so construed as to deny to persons under these circumstances public relief simply by reason of the failure to strictly comply with their terms.

In a former opinion of this department, reported in Opinions, Attorney General, 1919, Vol. I, page 965, it is said:

"The poor laws of the state should be liberally construed so as to accomplish the object and purpose of the enactment, and should not, excepting only when clearly and imperatively so required by their own language, be so construed as to exclude from their protection an indigent poor person who is in a condition requiring public support and relief."

The fact that the hospital to which this man was taken is a sectarian institution does not, in my opinion, preclude payment to them by public officials for services rendered.

Section 3138-1, General Code, to which you refer in your inquiry, has reference only to the making of contracts with sectarian institutions by county commissioners and is not applicable to situations wherein temporary relief is granted in emergency cases.

I am therefore of the opinion that it is proper and legal for the township trustees of Latty Township, Paulding County, Ohio, to pay the hospital and transportation bills about which you inquire.

Respectfully,  
EDWARD C. TURNER,  
*Attorney General.*

2561.

APPROVAL, ABSTRACT OF TITLE TO LAND OF EDWARD CUNNINGHAM, IN NILE TOWNSHIP, SCIOTO COUNTY, OHIO.

COLUMBUS, OHIO, September 11, 1928.

HON. CARL E. STEER, *Secretary, Ohio Agricultural Experiment Station, Columbus, Ohio.*

DEAR SIR:—This is to acknowledge receipt of your communication under date of September 4, 1928, enclosing a corrected abstract of title of certain lands in Nile Township, Scioto County, Ohio, standing in the name of Edward Cunningham, which property is more particularly described in Opinion No. 2325 of this department addressed to you under date of July 7, 1928.

Upon examining the corrected abstract of title submitted, I find that the objections noted by me to the original abstract, and set out in the former opinion of this