

Code defining the subjects of taxation. That section defined personal property as including various enumerated types of property. The specific question in the case was as to the taxability of a form of property not therein specifically described. In holding this particular form of property taxable, the Supreme Court on page 263 says:

"Section 5325, General Code, does not exclude any property or thing from the term personal property but out of abundant caution provides that the term shall include the things named. It cannot be construed as if it read the term shall *only include*.

As pointed out in *Ohio Electric Ry. Co. v. Village of Ottawa*, 85 Ohio St., 229, 236, the maxim *expressio unius exclusio alterius*, is to be applied only as an aid to discover intention, and not to defeat clear intention."

The view which I here express is also in accord with my Opinion No. 600, found in Opinions of the Attorney General for 1929, page 925, wherein, in construing a somewhat similar statute, I reached the conclusion that a soldier in the regular army of the United States, who had not served at any time when there was a state of war, was entitled to admission to the Ohio Soldiers' and Sailors' Home.

Accordingly, by way of specific answer to your inquiry, I am of the opinion that the provisions of section 2930 et seq. of the General Code, extend the relief therein provided to all indigent soldiers, sailors and marines and their indigent parents, wives, widows and minor children, including widows of soldiers, sailors and marines who have remarried but again have become indigent widows, irrespective of the fact that such soldiers, sailors and marines may not have any war service.

Respectfully,
GILBERT BETTMAN,
Attorney General.

2977.

DEPENDENT CHILDREN—CARED FOR BY FRIENDS WHEN PARENTS
INDIGENT—NO PROCEEDINGS TAKEN UNDER POOR LAWS—
COUNTY COMMISSIONERS MAY NOT MAKE ALLOWANCE FOR
SUCH SUPPORT AFTER SERVICE RENDERED.

SYLLABUS:

Where children have a legal settlement in a township and are taken and cared for by friends, without any proceedings taken under the poor laws, the county commissioners may not properly, after the service has been rendered, make an allowance for such support.

COLUMBUS, OHIO, February 24, 1931.

HON. JOHN K. SAWYERS, JR., *Prosecuting Attorney, Woodsfield, Ohio.*

DEAR SIR:—Your recent communication reads:

"I have a rather small matter, but one that is rather other than ordinary, on which I desire your opinion.

Some three months ago the Juvenile Court sentenced a man to the

county jail for the period of some six months. At the time that he was arrested and sentenced to jail his family was living in Washington County, where they had been temporarily for some months. As soon as he was confined, the family became in distressed circumstances and the mother and the wife went to stay with her father and mother in Washington County but the children were taken care of by other residents in Monroe County. These residents are in poor circumstances and were put to a considerable expense in taking care of some four or five small children for between two and three months.

Inasmuch as the residence of the mother of the children was not in Washington County, her application for aid and the mother's pension was turned down by the Washington County officials. Not until recently did the mother get with the children in this county and make application for a mother's pension, which was promptly granted. For the some two or three months care of the children in question a bill has been filed with the County Commissioners for the temporary aid given these distressed children during the interim when there seemed to be no one to turn to for aid. I believe that the County Commissioners are inclined to pay the bill presented if they can legally do so.

I would like to have your opinion as to whether or not a bill of this type may be legally paid by the County Commissioners."

By reason of the provisions of Section 3479, General Code, it would seem that the children you mention would continue to have a legal settlement in the township in which they were living until they acquire one elsewhere.

Under Section 3476, General Code, and its related sections, outside relief is required to be given by the township or city to those having a legal settlement therein, with certain exceptions mentioned therein.

Sections 3480 and 3481, General Code, set forth the method of procedure which is the basis of the granting of poor relief. The section last mentioned, provides that no relief shall be given to a person without the visitation and investigation required in that section. It follows that no bill may be legally incurred under the circumstances you mention in favor of the persons voluntarily supporting the children. Such relief should be granted by the township after following the steps outlined by the statute.

While all will appreciate that it would be desirable to aid those who have befriended the children, it must be kept in mind that payments may not be made from the public treasuries except in pursuance of law.

In specific answer to your inquiry, therefore, it is my opinion that where children have a legal settlement in a township and are taken and cared for by friends, without any proceedings taken under the poor laws, the county commissioners may not properly, after the service has been rendered, make an allowance for such support.

Respectfully,

GILBERT BETTMAN,

Attorney General.