

measure is reasonable under the police power must, in the last analysis, be determined by courts of competent jurisdiction.

In specific answer to your question, it is my opinion that it would be legal for either a board of education or a board of health to give the tuberculin test to school children by means of the injection method or application of a salve, if it is found to be a reasonable measure for the protection of the public health and safety.

Respectfully,

JOHN W. BRICKER,
Attorney General.

486.

LEGAL SETTLEMENT—POOR RELIEF—RELIEF SECURED FROM MEMBER OF FAMILY DOES NOT PREVENT INDIGENT FROM RECEIVING LEGAL SETTLEMENT.

SYLLABUS:

A woman who is a resident of one county in this state and moves to another county of this state and there resides for twenty-two months and is maintained and supported by her brother but is not aided or assisted by charitable institutions or organizations as mentioned in Section 3477, General Code, has gained a residence in the county where she last resided and said county, township or municipality is responsible for her care and support.

COLUMBUS, OHIO, April 6, 1933.

HON. I. K. SALTSMAN, *Prosecuting Attorney, Carrollton, Ohio.*

DEAR SIR:—This will acknowledge your letter of recent date in which you request my opinion upon the following question:

“Your opinion is respectfully desired on a question of county liability for hospital care of an indigent, and involving, I believe, a construction of Sections 3477 and 3479, General Code of Ohio.

The facts are as follows:

Mrs. G. resided in Canton, Stark County, for many years and acquired a residence there. Approximately 22 months ago, she moved to Carroll County, Ohio, from the home of her brother-in-law in Canton, Stark County, where she then stayed, to reside with her brother, Mr. R. At the time she moved to reside with Mr. R., her brother, Mrs. G. had no funds of any kind; is an aged woman, and during the entire 22 months that she resided with her brother, Mr. R., she had been entirely supported by him and was indigent. She has received no public relief either directly or indirectly in either Stark County or Carroll County. Recently, Mrs. G. sustained an injury, requiring hospital attention and expenses.

Question—Since Mrs. G. has not continuously resided and supported herself while in Carroll County, it is contended that the expense of said hospital care should be borne by Stark County.

It has been the custom in this county and adjoining counties to con-

strue the words 'supported herself' as including both public relief and private relief, where the facts conclusively show that the person is in fact entirely indigent, and therefore not self supporting." Sections 3477 and 3479, General Code, are as follows:

Section 3477.

"Each 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 any charitable organization or other benevolent association which investigates and keeps a record of facts relating to persons who receive or apply for relief."

Sec. 3479.

"A person having a legal settlement in any county in the state shall be considered as having a legal settlement in the township, or municipal corporation therein, in which he has last resided continuously and supported himself for three consecutive months without relief, under the provisions of law for the relief of the poor, or from any charitable organization or other benevolent association which investigates and keeps a record of facts relating to persons who receive or apply for relief. When a person has for a period of more than one year not secured a legal settlement in any county, township or city in the state, he shall be deemed to have a legal settlement in the county, township or city where he last has such settlement."

In the consideration of a similar question in which a mother had left the county of her residence and gone to another county in this state where she was maintained by her son for considerable time but without the aid and assistance mentioned in Section 3477, this office in Opinion No. 2585, p. 2298, Vol. III of Opinions of the Attorney General for 1928, held that notwithstanding the mother received aid and support by her son, she gained her residence in the last county and that county was responsible for her care and keep.

In the case of *Board of Commissioners of Summit County vs. Board of Commissioners of Trumbull County*, 116 O. S. 663, where a mother with several children had been aided and assisted by charitable institutions in the county of her residence moved to an adjoining county and there lived for sufficient time to gain a residence under Section 3477 but said children were maintained by their stepfather and after the stepfather left, the mother and children were partly maintained by charity but not such as were then mentioned in Section 3477, the court held that the mother and children gained a residence in the last county.

In Opinion No. 2561, p. 2075 of Opinions of the Attorney General for 1928, this office held that "the poor laws of the state should be liberally construed so as to accomplish the object and purpose of their enactment."

Section 3477 would seem to intend that anyone who has continuously resided and supported himself or herself for twelve consecutive months in any one county, so long as he or she has not received relief from any charitable organization or other benevolent association which investigates and keeps a record of facts of

persons who receive or apply for relief, gains a residence in said county in this state, it being the intention of the legislature that a person able to maintain or support himself or herself, by whatever means, without the aid and assistance of charitable organizations would gain a residence in the county.

Specifically answering your question, I am of the opinion that the appropriate subdivision of Carroll County, Ohio, is responsible for the care and keep of Mrs. G.

Respectfully,
 JOHN W. BRICKER,
Attorney General.

487.

BUS DRIVER—WHETHER INDEPENDENT CONTRACTOR OR EMPLOYEE DETERMINED BY TERMS OF SPECIFIC CONTRACT WITH BOARD OF EDUCATION—RELATIONSHIP DISTINGUISHED—WORKMEN'S COMPENSATION LAW APPLICABLE WHEN.

SYLLABUS:

1. *The relation existing between the board of education and the bus driver under contract for the transportation of pupils must be determined by the terms of the specific contract, whether employe or independent contractor. Where the relationship of independent contractor exists between the board of education and the person contracting for the transportation of the pupils, the amount paid the independent contractor should not be included in the amount expended for services of employes, as required in the report in section 1465-65, General Code.*

2. *Where from the terms of the specific contract the person contracting for the transportation of the school pupils with the board of education is required to drive his own truck, such a contract is a contract of hire within the meaning of the Workmen's Compensation Act. That amount of the contract price which fairly represents the amount paid the driver for his personal services should be included in the amount expended for services of employes in the report required under section 1465-65, General Code, and not the full contract price.*

COLUMBUS, OHIO, April 6, 1933.

HON. PAUL A. BADEN, *Prosecuting Attorney, Hamilton, Ohio.*

DEAR SIR:—Your recent request for my opinion reads as follows:

“A question has been presented to this office by the County Superintendent of Schools on which we would like to have the opinion of your office.

Under Section 1465-65 of the General Code the Clerk of the Board of Education of each School District is required to furnish to the County Auditor a report showing the amount of money expended by the District during the preceding calendar year for services of employees under the Workmen's Compensation Law.

In Butler County the School Districts have worked out an arrangement with bus drivers whereby the bus driver purchases and owns a bus and he is then hired by the School District. He receives approximately