1281.

APPROVAL, BONDS OF CLARK COUNTY, $50,000.00, TO ERECT AN ANNEX TO CHILDREN'S HOME.

COLUMBUS, OHIO, March 18, 1924.

*Department of Industrial Relations, Industrial Commission of Ohio, Columbus, Ohio.*

---

1282.

COUNTY AUDITOR—AUTHORITY TO DISCHARGE PERSONS FROM COUNTY JAIL DISCUSSED.

*SYLLABUS;*

*In case of commitment to jail for failure to pay fine under section* 12694, *the county auditor cannot legally discharge such person from jail under the provisions of section* 2576 *G. C.*

COLUMBUS, OHIO, March 19, 1924.

HON. H. M. PLATTER, *Secretary State Medical Board, Columbus, Ohio.*

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

> "An auditor of one of the counties of Ohio recently released two chiropractors sentenced to the jail of the county for non-payment of fines and costs assessed against them. The men convicted declined to pay their fines of twenty-five dollars each and elected to serve forty-one days in the county jail instead.
>
> The statute under which the auditor attempted to proceed is section 2576, which provides a manner by which the county auditor may discharge a person confined for non-payment of a fine to the county. Section 12699 provides that the fines assessed for violation of the Medical Practice Act shall be paid to the State Medical Board.
>
> The department is of the opinion that the action of the auditor is illegal and desires an opinion covering the subject."

Section 2576, General Code of Ohio,, provides:

> "The county auditor may discharge from imprisonment any person confined in the county jail for the non-payment of a fine or amercement due the county, except fines for contempt of court or an officer of the law, when it is made clearly to appear to him that the fine or amercement cannot be collected by such imprisonment."

It will be noted that the authority therein conferred upon a county auditor to discharge a person is limited to those cases in which one is imprisoned for the non-payment of a fine "due the county."

In an opinion found in Opinions of the Attorney-General for 1921, at page 985, it was held: