

amount thereof to the county auditor (see *Cattell vs. Putnam*, 73 O. S. 147), it necessarily follows that in order to give effect to section 2653, the payment becomes due one-half in the December next following the certification, and the remaining half six months after the coming due of the first half.

It is difficult to perceive how any valid argument may be advanced as tending to show that the assessment is collectible in one payment; for such a theory is not only at variance with the express terms of section 6639, but is also inconsistent with the provisions of section 6635 that the owner may do the work himself; and the provisions of section 6639 giving the owner the *option* of making a lump sum payment of the assessable amount before it is charged on the duplicate.

Respectfully,
JOHN G. PRICE,
Attorney-General.

1714.

OUTSIDE RELIEF—PERMANENT PARTIAL OUTSIDE RELIEF TO INDIGENT PERSONS SHOULD BE AFFORDED BY TOWNSHIP OR CITY RATHER THAN BY COUNTY—EXCEPTION—SEE SECTION 3476 G. C. (108 O. L. 272).

Permanent partial outside relief to indigent persons should be afforded by the township or city, rather than by the county, unless the applicants for such relief are persons "whose peculiar condition is such they cannot be satisfactorily cared for except under county control." (See section 3476 G. C., 108 O. L., Part I, p. 272).

COLUMBUS, OHIO, December 16, 1920.

HON. JOHN L. CABLE, *Prosecuting Attorney, Lima, Ohio.*

DEAR SIR:—In recent letters to this office you present a state of facts which may be put thus:

"S. and his wife are aged paupers, legally settled in B. township, Allen county. Both are physically unable to work. Their friends assist them to some extent, but Allen county has been paying a grocery bill for them of approximately five dollars per week."

You ask whether Allen county has authority to do this, or putting the question another way, you ask whether a county has authority to render *partial, permanent outside relief*.

It is a matter of common knowledge that in the past considerable difficulty has been experienced by boards of county commissioners, county infirmary superintendents, and boards of township trustees in ascertaining what was the power and duty of the county on the one hand, and the township or city on the other, in the matter of furnishing poor relief. Another difficulty encountered was that which the county authorities had in determining when it was and was not proper to afford "outside relief"—that is, relief to persons in their homes and outside of the county infirmary. Being no doubt cognizant of these facts, the last legislature undertook to amend, in H. B. 150, found in 108 O. L. Part I, p. 266, certain sections of the General Code relating to county infirmaries and poor relief.

Of the amended sections, one of the most important, because it furnishes a direct statement of the legislative intent, is section 3476 G. C., which says:

"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 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 cannot 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 2544 G. C., as amended by the same act (108 O. L. Part I, p. 269), says:

"In any county having an infirmary, when the trustees of a township or the proper officers of a corporation, after making the inquiry provided by law, are of the opinion that the person complained of is entitled to admission to the county infirmary, they shall forthwith transmit a statement of the facts to the superintendent of the infirmary, and if it appears that such person is legally settled in the township or has no legal settlement in this state, or that such settlement is unknown, and the superintendent of the infirmary is satisfied that such person should become a county charge he shall account such person as a county charge and shall receive and provide for him in such institution forthwith or as soon as his physical condition will so permit. The county shall not be liable for any relief furnished, or expenses incurred by the township trustees."

Sections 3477 and 3479 G. C., the sections referred to in section 3476 G. C. by the words

" * * * all persons * * * as described in sections 3477 and 3479 G. C.",

prescribe the residence qualifications for what is called "legal settlement" in the county, and in the township or municipal corporation therein.

On the subject of medical relief, section 2546 G. C. was, by the same bill, changed to read thus:

"Sec. 2546. The county commissioners may contract with one or more competent physicians to furnish medical relief and medicines necessary for the inmates of the infirmary, but no contract shall extend beyond one year.
* * * No medical relief for persons in their homes shall be furnished by the county, except for persons who are not residents of the state or county for one year, or residents of a township or city for three months, and except under provisions of section 2544."

Speaking of these amendments, the Attorney-General in Opinion number 663, dated September 30, 1919, addressed to Hon. Lloyd S. Leech, and reported in Opinions of Attorney-General for 1919, Vol. II, p. 1237, said:

“While the law prior to the recent amendment was construed as placing the primary responsibility of affording relief to indigent poor upon the townships and municipal corporations, subject to the county’s obligation in case a more permanent provision was required, yet that view was by no means capable of general or universal application, inasmuch as it was provided, for example, in section 2544 that the county should provide for indigent persons in the county institution ‘or otherwise,’ and in section 2546 that the county commissioners should contract with physicians to furnish relief for persons of their respective townships under the charge of the county.

The intent to eliminate this apparent concurrence of jurisdiction of the county and the township in the matter of affording outside aid is very apparent in the new law in that the words ‘or otherwise’ have been dropped from section 2544 and the provision of section 2546 for providing medical relief by the county is limited to inmates of the county home, and the policy of the law is further clarified in the provisions of section 3476 which states with particularity the intent of the act with respect to temporary relief of residents of the township or city.”

As the law now stands, townships and cities are required to furnish relief in two classes of cases: (1) To all persons needing *temporary* relief who are residents of the state, county and township under sections 3477 and 3479 G. C. (2) To all persons needing *partial* relief who are residents of the state, county and township under sections 3477 and 3479. The word “temporary” has reference to duration of time and is the antithesis of “permanent,” while “partial” refers to the amount or quantity of relief, and is the antithesis of “complete.” In other words, it is the intent of section 3476 G. C. that (a) persons possessing residence qualifications who need relief for a little while, and (b) persons possessing residence qualifications who need a little relief *continually*, are to be furnished that relief by the townships and cities, rather than by the county.

The county, on the other hand, is required by section 3476 G. C. to furnish relief in four classes of cases:

(1) To persons not having the residence requirements laid down by sections 3477 and 3479 G. C. As to such persons, it is immaterial whether the relief needed is temporary or permanent relief, partial or complete. Section 3482 G. C., it will be noticed, provides for the removal of such a person by the county infirmary superintendent, when it has been ascertained that he has a legal settlement in some other county of the state.

(2) To persons who are *permanently disabled*. In connection with the phrase “permanently disabled” it may well be noted that since, as to persons having the necessary residence requirements, the township or city is required to furnish *partial* relief (which as has been explained, includes the giving of a little relief all the time), the disability referred to in the phrase “permanently disabled” is permanent *total* disability, rather than permanent *partial* disability.

(3) To persons who have become paupers. In using the word “paupers”, it is believed that the legislature had in mind a condition of *permanent*, rather than *temporary* pauperism; in other words a condition that was beyond the “temporary or partial relief” which section 3476 G. C. authorizes the township or city to afford. Unless such a distinction be made, the result is a situation of concurrent jurisdiction between the poor relief agencies as to all “paupers,” which is not thought to have been the legislative intention.

(4) To such other persons whose *peculiar condition* is such they cannot be satisfactorily cared for except at the county infirmary or under county control.

The presence of these last words "or under county control" following immediately, as they do, the words "at the county infirmary" clearly means that *outside* as well as *inside* relief for those in a "peculiar condition," is authorized.

The provision in question is quite evidently intended to be in the nature of an exception to the policy of poor relief established by the prior provisions of section 3476 G. C. For one thing, the first words of the provision are "to such *other* persons", indicating that the prior classification was not to control what was to follow. Again, the persons referred to are persons in a "peculiar" condition—that is, a condition of such nature as to require relief different from that which the township or city is able to give.

We shall not here attempt to enumerate all the circumstances which might make proper an admission to the county infirmary of persons in a "peculiar condition" or which might entitle such persons to outside relief. Mention might, however, be made of persons affected with a contagious or infectious disease of such character as to warrant the attention of the county authorities, who might possibly be better equipped to render the necessary relief than the township or city authorities. Mention might also be made of aged and decrepit persons possessing property, who, for one reason or another, were not receiving satisfactory care. Section 2548 G. C. recognizes this latter situation, expressly providing a way whereby the county commissioners may obtain possession of the property of one who becomes "a county charge."

In the case put by your letter there is nothing to indicate that S. and his wife are in a "peculiar condition" such as to justify county relief. On the contrary, the facts show that these people are of the class of persons who are not wholly dependent upon the public authorities for support, but are rather of those who need a *little* relief all the time. In other words, it would seem that they are persons needing *partial relief*, who fall within that part of section 3476 G. C. which says:

"It is the intent of this act that townships and cities shall furnish relief in their homes to all persons needing temporary or partial relief
* * *"

Your question may, therefore, be answered by saying that permanent partial outside relief to indigent persons should, pursuant to section 3476 G. C. (108 O. L., Part I, p. 272), be afforded by the township or city, rather than by the county, unless the applicants for such relief are persons "whose peculiar condition is such they cannot be satisfactorily cared for except under county control."

Respectfully,
JOHN G. PRICE,
Attorney-General.

1715.

APPROVAL, FINAL RESOLUTION FOR ROAD IMPROVEMENTS IN
MUSKINGUM COUNTY, OHIO.

COLUMBUS, OHIO, December 16, 1920.

HON. A. R. TAYLOR, *State Highway Commissioner, Columbus, Ohio.*