

2225.

COUNTY CHILDREN'S HOME—BEQUEST OF MONEY "TO THE CHILDREN'S HOME OF ——— COUNTY, OHIO," PAYABLE TO COUNTY COMMISSIONERS IN TRUST FOR SUPPORT OF HOME.

*A bequest of money "to the children's home of ——— county, Ohio," may lawfully be paid to and received by the county commissioners in trust for the support of the home.*

COLUMBUS, OHIO, July 2, 1921.

HON. J. F. HENDERSON, *Prosecuting Attorney, Ashland, Ohio.*

DEAR SIR:—You have requested the opinion of this department as follows:

"Will you please furnish us with an opinion on who is the proper party to handle the funds in the following bequest:

'I give, devise and bequeath the sum of \$300.00 to the children's home of Ashland county, Ohio.'

There is nothing said as to the trustees of said home handling this money, neither is there anything said about the county commissioners handling the fund. The executor of the will wants to pay the money over and the trustees want it but it is a question in my mind whether or not the trustees can handle any money at all under the present law."

Section 3080, General Code, provides as follows:

"Such (county) commissioners may receive and hold in trust for the use and benefit of the home, any grant or devise of land and any donation, bequest, money or other personal property that may be made for the establishment and support of such home."

Further to illustrate the scheme set up in the statutes of this state for the fiscal administration of a county children's home, the following may be quoted:

"Sec. 3104. The board of trustees shall report annually to the commissioners of the county the condition of the home, and make out and deliver to the commissioners a carefully prepared estimate, in writing, of the wants of the home for the succeeding year. Such estimate shall specify separately the amounts required for each of the following purposes, to-wit: First, maintenance. Second, repairs. Third, special improvements."

"Sec. 3105. At their regular quarterly meeting at which such estimate is presented to them, the commissioners shall carefully examine the estimate, and if, in their judgment, it is reasonable and ratably within the assessment for the support of the home for the current year, or so much thereof as they deem reasonable and within such assessment, the board of commissioners shall allow and approve, and shall appropriate and set apart such amount for the use of the home. Upon the order of the trustees of the home, the county auditor shall draw his warrant upon the county treasurer, who shall pay such warrant from the fund so appropriated and set apart."

"Sec. 3106. The trustees shall contract no debts and make no pur-

chase in excess of the amount so appropriated. No member of the board of trustees of a children's home shall sell or supply any article for the maintenance of the home or be interested in any contract made by the board."

It is inferred from your letter that Ashland county has a county children's home governed by the above quoted sections, and that such home was the intended beneficiary of the bequest quoted in your letter. A county children's home is not a body corporate, and has no legal existence as a person empowered to hold legal title or to take by a bequest. It seems, however, that the testator's intention that the sum of three hundred dollars shall be applied in the proper manner to the support of the children's home is clear. It is concluded, therefore, that the bequest has the legal effect of one made to the proper legal body for the use of, or in trust for, the support of the children's home. That legal body is pointed out by section 3080 of the General Code, and is the county commissioners. That section, in the opinion of this department, means that any donation, bequest, money or other personal property that may be made for the establishment and support of the children's home is to be received and held in trust for such purpose by the county commissioners. The trustees of the home have no authority to receive and hold money for that purpose, and in fact have no authority to disburse any money for the support of the home save in pursuance of appropriations made by the county commissioners, who constitute the public agency in supreme control of the fiscal affairs of the institution.

Accordingly, it is the opinion of this department that the county commissioners are authorized to receive, and the executor is entitled to pay over, the sum mentioned in the bequest for the use of the children's home.

Respectfully,

JOHN G. PRICE,  
*Attorney-General.*

2226.

MUNICIPAL CORPORATION—BOND ISSUE FOR RE-CONSTRUCTING, IMPROVING AND EXTENDING AERIAL FIRE AND POLICE ALARM SYSTEM LEGAL UNDER PROVISIONS OF SECTION 3939 G. C.—CITY OF MASSILLON.

*Under the provisions of section 3939 G. C. a bond issue in the sum of sixteen thousand dollars for the purpose of reconstructing, improving and extending the aerial fire and police alarm system in the city of Massillon, Ohio, is legal and authorized by the provisions of said section.*

COLUMBUS, OHIO, July 2, 1921.

*Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.*

GENTLEMEN:—Receipt is acknowledged of your letter of recent date requesting an opinion upon the following statement of facts and inquiry:

*"Statement of Facts.*

The council of the city of Massillon, Ohio, authorized an issue of bonds in the sum of \$16,000.00 for the purpose of reconstructing,