

upon them by statute, when such officials act in a reasonable and conscientious manner in the carrying out of such duties. And, since the possible personal liability of township trustees for the negligent performance of their duties in carrying out the provisions of the above sections relating to the destruction of noxious weeds is not a matter of public concern, I express no opinion thereon.

Respectfully,

GILBERT BETTMAN,
Attorney General.

3679.

OHIO STATE SANATORIUM—COST OF CLOTHING FOR PATIENTS
CHARGEABLE TO COUNTY OF RESIDENCE—COST OF EQUIP-
MENT FOR INMATES NOT CHARGEABLE TO COUNTY AS AN
INCIDENTAL EXPENSE.

SYLLABUS:

1. *Clothing for patients at the Ohio State Sanatorium who are unable to provide themselves therewith shall be furnished by the steward or financial officer of such institution and the cost thereof charged against the county from which the person came.*
2. *Cost of equipment needed for the care of an inmate of the Ohio State Sanatorium cannot be charged to the county from which the patient came as an "incidental expense" of such patient under section 1816, General Code.*

COLUMBUS, OHIO, October 21, 1931.

HON. JOHN MCSWEENEY, *Director of Public Welfare, Columbus, Ohio.*

DEAR SIR:—This is to acknowledge receipt of your recent request for my opinion which reads as follows:

"Section 2068 G. C. of the laws governing the Ohio State Sanatorium reads as follows:

'Who entitled to admission; payment for support. Any citizen of this state suffering from pulmonary tuberculosis in the incipient or early stage and any citizen of this state under twelve years of age who has tuberculosis in any of its forms or who is predisposed thereto, as determined by the superintendent, may be admitted to the sanatorium upon payment in advance of a sum to be fixed by the superintendent, said sum to be not less than five dollars nor more than twenty-five dollars each week, according to the financial condition and ability to pay of the person applying for admittance or any other person legally liable for care and support of said applicant. Said sum, so fixed, shall fully cover all expenses for medical treatment, medicine, nursing, board, lodging and laundry. The superintendent shall make such investigation as is necessary to determine such financial condition and ability to pay, and may at any time increase or decrease the amount within the limits herein prescribed upon the approval of the department of public welfare. Payment for the support of patients in the sanatorium shall be made in accordance with the provisions of sections 1815-13, 1815-14 and 1815-15 of the General Code.'

Section 1815 G. C. reads:

'Inmates to be supported at the expense of state; exceptions. All persons now inmates of, or hereafter admitted into, a benevolent institution, except as otherwise provided in this chapter, except as otherwise provided in chapters relating to particular institutions, shall be maintained at the expense of the state. They shall be neatly and comfortably clothed and their traveling and incidental expenses paid by themselves or those having them in charge. (101 v. 157.)'

Sections 1815-13, 1815-14 and 1815-15 cover the method of collections for the support of patients in the Sanatorium.

Section 1815-14 G. C. provides:

'When county shall pay for support of patients. If after the investigation provided in the next preceding section it shall be found that said applicant or inmate or any person legally responsible for his support is unable to pay the minimum amount fixed by law, said board of state charities shall determine what amount, if any, said applicant or inmate or any person legally responsible for his support shall pay. The difference between the amount so determined and the minimum amount fixed by section 2068 of the General Code shall be paid by the county in which said applicant or patient has a legal residence. The amount so determined to be paid by the county shall be paid from the poor fund on the order of the county commissioners. (108 v. Pt. 1, 611; 106 v. 559.)'

Section 1816 G. C. reads:

'Payment of expenses and collection from county. In case of failure to pay incidental expenses, or furnish necessary clothing, the steward or other financial officer of the institution may pay such expenses, and furnish the requisite clothing, and pay therefor from the appropriation for the current expenses of the institution, keeping and reporting a separate account thereof. The Account so drawn, signed by such officer, countersigned by the superintendent shall be forwarded by such office, to the auditor of the county, from which the person came; and such auditor shall issue his warrant, payable to the treasurer of state for the amount of such bill and charge the amount to the current expense fund. The county auditor shall then collect the account in the name of the state as other debts are collected. (106 v. 503.)'

One of the requirements for admission to the Sanatorium is that the patient shall have sufficient clothing and certain supplies in his possession at the time of admission. A list of supplies and clothing required as furnished each applicant for admission is enclosed.

When the clothing of an indigent patient in the Sanatorium must be replaced, it has been the custom of the Superintendent of the Sanatorium to purchase the necessary clothing and bill the costs back to the County Commissioners of the County from which the patient was admitted. It has also been the custom of the Superintendent to ask the County Commissioners to furnish or replace certain equipment for indigent patients as may be required for their comfort and proper care.

Recently the County Commissioners of a certain County refused to furnish or reimburse the Sanatorium for clothing and supplies furnished an indigent patient, stating that the Bureau of Public Accounting advised the Commissioners that payments of this nature are illegal and that the compensation being paid under Section 2068 and 1815-14 is all that may be collected for the care and treatment of patients.

We respectfully request your opinion on the following questions:

1. When patients of the Ohio State Sanatorium are unable to provide themselves with the necessary clothing, how shall such clothing be furnished and paid for?

Are the County Commissioners liable for the expense of such clothing?

2. In addition to the amount charged to the County Commissioners in the case of indigent patients for 'medical treatment, medicine, nursing, board, lodging and laundry' as specified by Section 2068 G. C., are the County Commissioners liable for payment for such equipment as may be considered by the Superintendent essential to the proper care and treatment of the patient?"

From the terms of section 2068 G. C. above quoted the sum which is to be paid for the maintenance of a person in the Ohio State Sanatorium, within certain limitations, is to be determined by the superintendent, and when so determined, includes all expenses for medical treatment, medicine, nursing, board lodging and laundry.

Section 1815-14 provides that in the event it is found that such applicant or inmate or any person legally responsible for his support is unable to pay the minimum amount fixed by law, the board of State Charities is to determine what amount the applicant or inmate or person legally responsible for his support shall pay and the difference between the amount so determined and the minimum amount fixed by section 2068, General Code, is to be paid by the county in which the applicant or patient has a legal residence.

Section 1816, General Code, above quoted, specifically provides that the cost of incidental expenses or necessary clothing if not provided for by the applicant or inmate or person legally responsible therefor, may be paid by the steward or other financial officer of the said institution and when paid the amount shall be forwarded to the auditor of the county from which the person came and such auditor shall issue his warrant payable to the Treasurer of State for the amount of such bill and charge such amount to the current expense fund. It follows from a reading of this section that the cost of clothing or other incidental expenses which are paid by the steward or financial officer of the institution for the inmates thereof must be charged against the county from which the person came.

In view of the foregoing and in answer to your first inquiry, I am of the opinion that clothing for patients at the Ohio State Sanatorium who are unable to provide themselves therewith shall be furnished by the steward or financial officer of such institution and the cost thereof charged against the county from which the person came.

In answer to your second question, under the terms of section 2068, General Code, above quoted, the sum which is to be paid for the maintenance of a person in the Ohio State Sanatorium, is to be determined within certain limitations by the superintendent of such institution, and when so determined, includes all expenses for medical treatment, medicine, board, lodging and laundry. It is further provided in section 1861, General Code, that the incidental expenses of such patients, if not provided for by the applicant or inmate or persons legally responsible therefor, are to be charged to the county from which the person came.

"Incidental expenses", in my opinion, connotes those expenses not connected with or necessary to the primary purpose for the inmates committent to the Sanatorium, and in the instant case would perhaps include such items of cost as magazines, smoking tobacco, stationery, etc. I do not believe that the terms

would include medical equipment since such would be in furtherance of the primary purpose for which the inmates are present in the Sanatorium, namely, medical treatment.

In view of the foregoing, I am of the opinion that the cost of equipment needed for the care of an inmate of the Ohio State Sanatorium cannot be charged to the county from which the patient came as an "incidental expense" of such patient under section 1816, General Code.

Respectfully,
GILBERT BETTMAN,
Attorney General.

3680.

APPROVAL, BONDS OF FULTON COUNTY, OHIO—\$23,000.00.

COLUMBUS, OHIO, October 22, 1931.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.

3681.

APPROVAL, BONDS OF EUCLID VILLAGE SCHOOL DISTRICT, CUYA-HOGA COUNTY, OHIO—\$10,000.00.

COLUMBUS, OHIO, October 22, 1931.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.

3682.

COST OF ASSISTANTS RELATIVE TO VALUATION OF PROPERTY NOT CHARGEABLE TO IMPROVEMENT—WHERE COMPLICATED SITUATIONS ARISE COUNTY COMMISSIONERS MAY EMPLOY EXPERT APPRAISERS AND CHARGE AGAINST IMPROVEMENT FUND.

SYLLABUS:

1. *When the county commissioners have under consideration the construction of roads, bridges, or buildings, they may legally require the clerk to obtain data and information relative to the value of the property which they contemplate obtaining and for such purpose may employ assistants to the clerk to aid in obtaining such data or appraising such property. If such assistants are employed, the cost thereof can not be charged to the improvement.*

2. *Where complicated properties are required in connection with a county improvement the county commissioners have implied power to employ expert ap-*