

Upon examination of the enclosures it is believed that the necessary certificates accompanied the certificate of dissolution from the Tax Commission of Ohio so far as the Tax Commission is concerned. However, in addition to the fact that the certificate required from the Tax Commission as to all reports required to be made to it have been filed in pursuance of law, and that all taxes or fees and penalties thereon due from such corporation have been paid, there is the further requirement of a certificate from the county treasurer wherein the property is located, showing that all personal property taxes assessed against such corporation, for the then current and previous years have been paid.

Upon examination of the certificate from the county treasurer of Hamilton county, it is disclosed that only the first half of the taxes for 1926 have been paid, the last half due and payable in June of 1927 are unpaid. Simple taxes are due and payable in December of a given year, but if the tax payer desires to pay the first half only in December, he may do so and pay the remaining half in June of the following year.

The purpose of Section 5521, General Code, is to prevent a corporation which is delinquent in any way from being dissolved during its delinquency.

It is my opinion that the county treasurer's certificate disclosing the fact that the last half of 1926 tax has not been paid, is not such a certificate as is contemplated in Section 5521, General Code, required to accompany a certificate of dissolution, as will permit you to file and accept the certificate of dissolution.

Respectfully,

EDWARD C. TURNER,

*Attorney General.*

224.

COUNTIES—LIABLE TO STATE FOR CLOTHING INMATES OF STATE BENEVOLENT INSTITUTIONS—SECTIONS 1815 AND 1816, GENERAL CODE, CONSTRUED

*SYLLABUS:*

*Under the provisions of Sections 1815 and 1816, General Code, counties of the state are liable for, and may be compelled to reimburse the state for the expense of clothing inmates of the state benevolent institutions.*

COLUMBUS, OHIO, March 23, 1927.

HON. JOHN E. HARPER, *Director of Public Welfare, Columbus, Ohio.*

DEAR SIR:—The Department of Public Welfare has rendered bills to the Auditor of Hamilton county, Ohio, for clothing furnished inmates of state institutions, as follows:

Longview State Hospital .....	\$1,086.65
Lima State Hospital .....	957.64
Dayton State Hospital .....	15.45

Said auditor has upon the advice of the prosecuting attorney of said county, refrained from issuing vouchers for said claims. In view of this fact I am herewith rendering to you my opinion as to the legality of the payment.

In the case of State, ex rel Price, Attorney General, vs. Huwe, Treasurer, et al., 105 O. S. 304, the first paragraph of the syllabus reads:

"The provision of Section 1, Article 7 of the Constitution, that 'institutions for the benefit of the insane, blind, and deaf and dumb, shall always be fostered and supported by the state', is not self-executing, and the mode in which such institutions are to be fostered and supported is left to the discretion of the general assembly."

And in the second paragraph of the syllabus it is stated:

"The statutes of the state, which require a portion of the expense of the care and maintenance of inmates of such institutions to be paid by the county from which they are respectively committed, are enacted in the exercise of the discretion so conferred upon the legislature, and are not in conflict with the provisions of the state or Federal constitutions and are therefore valid and enforceable."

In holding that Sections 1815 and 1816 of the General Code are not in conflict with Section 2, Article XII of the Ohio Constitution, the uniform-rule requirement as to taxation, the court says at page 309:

"No charge was made against any county for the care and maintenance of any person committed to such institutions from any other county, and in that respect the benefits conferred, and for which such payments are required, are entirely local in their character. Whatever tax levy may be necessary for such purpose would be uniform throughout the taxing district."

Now as to the liability of said county for the payment of said clothing, Sections 1815 and 1816 of the General Code read as follows:

"All persons now inmates of, or hereafter admitted into, a benevolent institution, except as otherwise provided in this chapter, and 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; R. S. 631.)

"Sec. 1816. 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 officer 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; R. S. 632.)

It is noted that Section 1815 provides that the inmates of benevolent institutions shall be neatly and comfortably clothed and their traveling and incidental expenses should be paid by themselves or those having them in charge. Under Section 1816 it is provided that in case of the failure of said inmates to pay for said clothing and expenses the steward or financial officer of the institution may pay such expense, furnish the requisite clothing and pay therefor from the appropriation for the current expenses of the institution, keeping and reporting a separate account thereof. This account is then to be forwarded to the auditor of the county from which the person

came; and such auditors shall issue a warrant, payable to the treasurer of the state for the amount of such bill and charge the amount to the current expense fund.

Sections 1815 and 1816 G. C. were originally Sections 631 and 632 of the Revised Statutes of Ohio. In the case of *State vs. Kiesewetter*, 37 O. S. page 546, the court in construing said sections of the Revised Statutes held that the expense of furnishing such clothing is under Section 631 chargeable on the estates of the patients or on those who would be legally bound to furnish them if they were not in the asylums.

And in the second paragraph of the syllabus it is held that:

"If the duty of supplying patients with clothing, as required by Section 631, should not be performed, the remedy, in such case of failure, is for the institution to furnish it under Section 632; and for the amount so furnished, it is to be reimbursed as therein provided."

Section 632 of the Revised Statutes which was enacted as 1816 of the General Code provided, at the time of the decision herein, that the account for clothing, if not paid by the inmate, or those responsible therefor, should be forwarded to the auditor of the county from which the person came and that said auditor should pay the amount of said bill out of the county funds.

In amending Section 1815 G. C. supra, the legislature substituted for the phrase "all persons admitted into any institution," the phrase, "all persons admitted into a benevolent institution."

You are advised that it is my opinion that, under the provisions of Sections 1815 and 1816, General Code, counties of the state are liable for, and may be compelled to reimburse the state for the expense of clothing inmates of the state benevolent institutions.

Respectfully,

EDWARD C. TURNER,

*Attorney General.*

225.

APPROVAL, LEASE TO OHIO FUEL SUPPLY COMPANY TO LAND IN HOCKING COUNTY, OHIO, FOR OIL AND GAS PURPOSES.

COLUMBUS, OHIO, March 23, 1927.

HON. JOSEPH T. TRACY, *Auditor of State, Columbus, Ohio.*

DEAR SIR:—You have submitted for my examination lease, in duplicate, between Joseph T. Tracy, Auditor of State, acting as State Supervisor of School and Ministerial Lands, as lessor, and the Ohio Fuel Supply Company, of Columbus, Ohio, as lessee, covering 652 acres of land located in section 29, range 16, township 13, Hocking county, Ohio, for oil and gas purposes.

The lease is signed on the part of the lessee as follows: "The Ohio Fuel Supply Company, by D. M. Wilson, vice-president," and is acknowledged by the same officer. You should be furnished with satisfactory evidence that said officer is properly authorized to execute the lease on behalf of the lessee.

Except as above noted, my examination of the lease reveals that the same is proper as to form, and I am therefore returning the same to you with my approval thereon, subject to the exception above noted.

Respectfully,

EDWARD C. TURNER,

*Attorney General.*