

in the county jail, and from there removed by this department to Dayton State Hospital.

The Portsmouth General Hospital now submits a bill for board and nursing at the rate of three and one-half (\$3.50) dollars per day.

Will you kindly advise me whether there is any provision of statute requiring the state to assume the payment of this bill or authorizing the department to use its funds for that purpose?"

From the statement in your communication, it clearly appears that the patient referred to was out of the state institution without the consent of the officials in charge thereof. An extensive search of the statutes has been made and no provisions thereof have come to my attention which authorize a payment of the hospital bill under such circumstances as your communication describes.

It is a well known rule of judicial interpretation in Ohio that moneys can not be drawn from the public treasuries except in pursuance of law. In other words, no matter how just or equitable a given charge may seem to be, unless there be specific statutory provisions authorizing a public official to make payments thereof, no such payment can be made.

While there are a number of sections of the General Code that deal with the subject of support of inmates in an insane asylum, there are none that cover the situation such as you present. The statutes require the state to provide for their support while such patients are in such state institutions, but those sections do not refer to or authorize the support of such inmates when outside of a state institution.

Section 1978, General Code, provides in substance that when a patient escapes from an insane hospital and returns to the county from which he was committed, the sheriff of such county, when notified by the superintendent, shall forthwith arrest and return him to the hospital. For such service the sheriff is entitled to be paid the fees allowed by law for the commitment of an insane person to a hospital and such fees are to be paid by the steward on the certificate of the superintendent.

The above provision is the only one coming to my attention that mentions the payment of costs in connection with the return of an escaped insane person and, of course, has no application to the question under consideration.

In view of the foregoing, and in specific answer to your inquiry, it is my opinion that when a person escapes from a state hospital for the insane and, during the time intervening between such escape and the time such patient is returned to the hospital, expenses have been incurred by reason of the care and attention furnished by a hospital due to the illness of the patient, there is no provision of law authorizing the payment of such hospital expenses from the state treasury.

Respectfully,

GILBERT BETTMAN,
Attorney General.

356.

APPROVAL, FINAL RESOLUTIONS ON ROAD IMPROVEMENTS IN
RICHLAND, PORTAGE, COLUMBIANA, LICKING AND LUCAS COUN-
TIES.

COLUMBUS, OHIO, April 26, 1929.

HON. ROBERT N. WAID, *Director of Highways, Columbus, Ohio.*