

226.

INDIGENT SICK AND DISABLED OF COUNTY AT LARGE—FUNDS TO CARE FOR SAME.

SYLLABUS:

1. *The fund derived from a tax levy under the provisions of Sections 3138-1 and 3138-2, General Code, may be legally applied to the care of the indigent sick and disabled of the county at large entitled thereto under the law, and the application of said fund is not limited to the care of those who are county or township charges.*

2. *Persons who are not established residents of a city and who require relief should be furnished such relief by the county under the provisions of Sections 3476 and 2540, General Code.*

COLUMBUS, OHIO, March 23, 1927.

HON. RALPH E. HOSKET, *Prosecuting Attorney, Dayton, Ohio.*

DEAR SIR:—This will acknowledge receipt of your recent communication in which you state that:

“For a number of years past, the county commissioners of Montgomery county, Ohio, have been giving to the two hospitals in the city of Dayton, twenty-five hundred (\$2,500.00) dollars in accordance with the provisions of Section 2502 G. C. Recently, however, they have entered into an agreement with the Miami Valley Hospital of Dayton, Ohio, under the provisions of Section 3138-1 G. C., for the payment of two (\$2.00) dollars per day for services rendered to the indigent sick of the county.

The Miami Valley Hospital has rendered to the county commissioners a bill approximating one thousand (\$1,000.00) dollars for services rendered during the month of January, this year.

The items which make up this bill show a charge for several different inmates of county institutions, the majority of the items, however, being charges for medical and surgical services rendered to a number of different persons residents of townships and villages in this county, the charges varying from a few days to ten days, and in their nature being temporary.

The question has arisen as to whether the county should pay the items of the bill for services rendered to other than inmates of county institutions, and I am requesting your opinion in the matter.

Will you kindly let us have your opinion as to whether or not the county is responsible and must pay for residents of the townships and villages who secure and accept temporary relief from the Miami Valley Hospital, or whether such charges are properly made against the townships and villages.

Along this same line another question has arisen, and that is that the Welfare Department of the city of Dayton has taken up with the county commissioners the relief to be afforded to approximately eighty-four (84) families, who are residing in the city of Dayton, but who, under the provisions of Section 3477, General Code, are not established residents of the city.

These families are principally people who have removed here from other states, with the intention of securing employment in the city of Dayton, but who have been unable to do so, and whose savings have soon been dissipated.

The city contends that it is the duty of the county to provide temporary relief, and, when necessary, to pay the expense of returning them to their former homes without the state.”

The first question is as to whether the county should pay for services rendered to other than inmates of county institutions.

Upon request of Hon. C. E. Moyer, prosecuting attorney, Sandusky, Ohio, I considered this same question and construed Sections 3138-1 and 3138-2 of the General Code in an opinion rendered January 25, 1927. Said opinion is numbered 21, and I am enclosing a copy thereof in answer to your first question.

In your second question you inquire as to "whether or not the county is responsible and must pay for residents of the townships and villages who secure and accept temporary relief from the Miami Valley Hospital, or whether such charges are properly made against the townships and villages."

Section 3138-2 reads:

"The board of commissioners may annually at the June session, levy a tax not exceeding two-tenths of one mill upon the taxable property of said county for the purpose of providing such aid and assistance to any such corporation or association; and all taxes so levied and collected under this act shall be applied under the order of said board to the purpose for which the same are so levied and collected."

It is noted that the authority herein given is to levy a tax upon all the taxable property of said county. It is therefore a county tax to be used co-extensive with the county, and therefore applies to the indigent sick of the county regardless of whether they are inmates of county institutions, and if residents of the county, regardless of whether they are residents of a municipality or township.

As stated in your communication, your former procedure was under Section 2502, General Code, now repealed, and you donated \$2,500.00 to the hospitals for the care of the indigent sick of the county. You are now paying \$2.00 per day for each indigent sick person treated at said hospital. Under your present contract, if your agreement is that said hospital shall treat all of the indigent sick of the county who may apply to said hospital, it seems evident that the county will be bound to pay for all such inmates of said hospital; but of your contract is to pay for only the indigent sick of said county who are selected by the board of county commissioners or their agents as persons eligible for treatment at said Miami Valley Hospital, your board of commissioners will be liable only for those so selected and certified to said hospital. It is therefore a question of fact as to what the agreement contains.

Your third question is in regard to the relief to be afforded to certain families in the city of Dayton who are not established residents of the city.

Section 2540 of the General Code provides as follows:

"The superintendent of the infirmary may remove any person becoming a charge upon the county who has no legal settlement in the state, to the county and state where such person has a legal settlement."

It seems evident that these families come within the provisions of this section if they have become a charge upon the county. This construction was given to this section in Opinions of the Attorney General, 1917, Vol. II, page 1786.

In Section 3476, General Code, it is provided that:

"Relief to be granted by the county shall be given to those persons who do not have the necessary residence requirements."

It is therefore the duty of the county under the provisions of said Sections 3476 and 2540 to furnish relief for said families of said city.

In passing it should be pointed out that Sections 3138-1, et seq., do not serve to relieve townships or municipalities of their duty to furnish the necessary medical relief and medicines to the persons who come under their charge under the poor laws.

Your attention is invited to Section 3490, General Code, entitled "Medical relief of poor in townships or corporations" and to Sections 3411 to 3414, inclusive, and Sections 4021 to 4035, inclusive, which respectively permit townships and municipalities to levy a tax not to exceed one mill on each dollar of the taxable property in the township or municipality for such purpose and to agree with a corporation organized for charitable purposes for the erection and management of a hospital suitably located for the treatment of the sick and disabled of such township or municipality.

In this connection your attention is invited to an opinion of this department reported at page 1177 of the Opinions of the Attorney General for 1920, which sets forth at length the law with reference to the respective duties of the county and the township in caring for the indigent poor.

Respectfully,
EDWARD C. TURNER,
Attorney General.

227.

APPROVAL, BONDS OF DELHI TOWNSHIP RURAL SCHOOL DISTRICT,
HAMILTON COUNTY, OHIO—\$4,200.00

COLUMBUS, OHIO, March 23, 1927.

Department of Industrial Relations, Industrial Commission of Ohio, Columbus, Ohio.

228.

TAXPAYER—MUST AVAIL HIMSELF OF REDUCTION REMEDIES AND
APPEAL JUDGMENT—IF NOT, EXECUTION MAY BE TAKEN
AGAINST HIS EQUITIES.

SYLLABUS:

Where a taxpayer fails to avail himself of the administrative remedies provided by statute for having the valuation of property reduced, and fails to appeal from a judgment for delinquent taxes, or to prosecute error thereon, he can not invalidate said judgment on the ground of excessive valuation of property. Proceedings in aid of execution may be taken to subject equities of said taxpayer to satisfy said judgment.

COLUMBUS, OHIO, March 23, 1927.

HON. FRANK F. COPE, *Prosecuting Attorney, Carrollton, Ohio.*

DEAR SIR:—This will acknowledge receipt of your recent communication in which you request my opinion on the following statement of facts:

"We have, in this county, delinquent taxes on the O. & P. Coal Company property due the county, in the amount of approximately \$20,000.00, dating back to about 1919, consisting of several definite pieces of property and various