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7. The term "indictable offenses" as used in Section 10(b) (1) in The Act should be restricted to include only indictable felonies to fully effectuate the meaning of the statute.

OFFICIAL OPINION NO. 38

August 26, 1963

Hon. Charley Kirk
State Representative
Rural Route 2
Floyd Knobs, Indiana

Dear Representative Kirk:

This is in response to your letter of July 30, in which you request my Official Opinion upon the following questions:

"Does the Board of Trustees of a hospital established under the Acts of 1917 have the power to determine which patients admitted to said hospital are subjects for charity?"

"When that determination is made by the hospital trustees, does the township trustee of the township from which said patient is admitted have the authority to disallow the finding of the board of trustees of said hospital?"

The section of law to which you make reference in your first question is Acts of 1917, Ch. 144, Sec. 18, as found in Burns' (1950 Repl.), Section 22-3237, reading as follows:

"The board of hospital trustees shall have power to determine whether or not patients presented at such public hospital for treatment or surgical operations are subjects for charity, and when such fact is duly determined by said board it is hereby made the duty of the superintendent or matron of said hospital to notify the township trustee of the township wherein said charity patient resided or wherein he or she was found at the time of sickness or accident that such person has been admitted to said hospital as a charity patient

from said township, which said notice may be either written or printed. It is hereby made the duty of the township trustees, as overseers of the poor in their respective townships of the county where such hospital shall have been established to pay to the treasurer of the hospital board the cost of the hospital care of such patient or patients as may have been admitted to such hospital from their respective townships: *Provided, however,* That the charge for hospital care for such patient or patients shall not exceed the actual cost of the same, said cost to be estimated by the matron or superintendent, or someone selected by them, which amount so due from said township trustee shall be paid by said trustee when the same shall be certified to by the matron or superintendent of such hospital." (Our emphasis)

The duties of the township trustees as overseers of the poor are set out in Acts of 1935, Ch. 116. Section 1 of that Act, as found in Burns' (1951 Repl.), Section 52-144, makes the several township trustees *ex officio* overseers of the poor, and provides as follows:

"The township trustees of the several townships of this state shall be *ex officio* the overseers of the poor within their respective townships, and shall perform all duties with reference to the poor of their respective townships that may be prescribed by law. Every township trustee shall, in discharging the duties prescribed by this act, be designated an overseer of the poor."

Claims for relief under the aforesaid act and the duties with respect thereto are described in Section 6 thereof, as provided in Burns' (1951 Repl.), Section 52-149, containing the following language:

"Whenever a claim for relief shall be made upon an overseer of the poor for the benefit of any persons or families of persons claiming to be poor and in distress, it shall be the duty of the overseer of the poor to carefully investigate the circumstances of such poor persons, so as to ascertain their legal settlement, their physical condition of sickness or health, their present

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and previous occupation, their ability and capacity for labor, their ages and the names and ages and the ability and capacity for labor of all members of their family, and if they are found to be in distress, the cause of their condition, if it can be ascertained. The overseer of the poor shall also inquire as to the family relationships of poor persons for whose benefit claims for relief are made, and, as far as possible, shall ascertain whether such persons have relatives able and willing to assist them.”

There is also a provision for temporary aid, the same being Section 7, as found in Burns' (1951 Repl.), Section 52-150, providing that:

“Whenever an overseer shall ascertain by investigation that any poor person or persons or family require assistance, he shall furnish to them such temporary aid as may be necessary for the relief of immediate and pressing suffering; before any further final or permanent relief in any case is given, the overseer shall consider whether distress can be relieved by other means than an expenditure of township funds.”

Section 5 of the Act, as amended by Acts of 1963, Ch. 156, Sec. 1, and as found in Burns' (1963 Supp.), Section 52-148, reads as follows:

“The overseer of the poor in each township shall have the oversight and care of all poor persons in his township so long as they remain a charge, and shall see that they are properly relieved and taken care of in the manner required by law. He shall, in cases of necessity, promptly provide medical and surgical attendance for all of the poor in his township who are not provided for in public institutions; and shall also see that such medicines and/or medical supplies and/or special diets and/or nursing as are prescribed by the physician or surgeon in attendance upon the poor are properly furnished.

“He may, in cases of necessity, authorize the payment from township poor relief funds for water, gas and

electric services, including the payment of delinquent bills for such services, when necessary to prevent their termination or to restore terminated service.

“He may, in cases of necessity, authorize the payment from township poor relief funds for lunches furnished to any child by the school in which the child attends classes, whenever the parent or other person responsible for such child is found to be an indigent person.”

Even though Section 5a of the Act as added in 1957, amended in 1961 and as found in Burns' (1963 Supp.), Section 52-148a, relieves the trustee of hospital expense in certain instances, nevertheless, the duty to notify the proper authority of the need for aid still rests upon the township trustee.

Other sections of the Poor Relief Law specifically describe further duties of township trustees. Sections 3 and 8 prescribe the circumstances under which a trustee shall have persons removed to a county home. Section 9 provides for the refusal of aid by overseers when there is ability to work. Section 10 prescribes the duty of the overseer before granting aid for a second time, and Section 13 sets out his duties with respect to nonresidents of the township in which they may be found.

The Acts of 1935, Ch. 116, concludes with Section 38 as found in Burns' (1951 Repl.), Section 52-181, which reads, in part, as follows:

“This act shall be considered as being supplemental to other acts relating to the matters covered herein and all such laws including this act shall be liberally construed to effectuate the general purposes and policies therein set forth * * *”

Construing the several sections of Acts of 1935, Ch. 116, *supra*, together, it would appear that the township trustees throughout the state are the overseers in their respective townships, performing all duties with respect to poor persons. They are given the duty to provide medical and surgical attendance to the poor in their respective townships who are not provided for in public institutions.

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Acts of 1937, Ch. 208, Sec. 1, as found in Burns' (1951 Repl.), Section 52-183, reads as follows:

"The township trustee of each township of this state, in his ex officio capacity as overseer of the poor within his township, shall have authority to employ supervisors, investigators and other assistants in discharging his duties concerning the relief of the poor in such township and to fix the salaries or wages to be paid to such supervisors, investigators and assistants."

The above section gives support to the apparent intent of the Legislature to place the duty of investigation with respect to poor persons in his township upon the overseer of the poor rather than upon any hospital.

The Poor Relief Law was enacted eighteen years subsequent to Burns' 22-3237, *supra*, and would appear to conflict with it. Therefore, we must be guided by the most recent legislation, for as said in 26 I. L. E. Statutes § 84:

"Where two statutes are repugnant to, or in conflict with, each other, the later one, although without a repealing clause, will prevail, so as to supersede and impliedly repeal the earlier statute. Likewise, where there is sufficient repugnancy or inconsistency between parts of two statutes, the earlier statute is impliedly repealed to the extent of the conflict, repugnancy, or inconsistency."

Therefore, it is my opinion that:

1. The board of trustees of a hospital, established under the Acts of 1917, Ch. 144, does not have the power to finally determine which patients admitted to said hospital are subjects for charity, but such final determination rests upon the trustee of the township ultimately responsible for the hospital expense of an indigent patient.

2. A township trustee has the authority to disallow any finding of a hospital board under Acts of 1917, Ch. 144, Sec. 18, respecting the classification of any patient as a subject of charity.