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1. POOR RELIEF — PRIVATELY OWNED HOME OR LODGING HOUSE TO FURNISH FOOD, CLOTHING, SHELTER, MEDICAL CARE OR OTHER SUBSISTENCE TO A PERSON WHO HAS LEGAL SETTLEMENT IN COUNTY — PUBLIC EXPENSE — SECTIONS 3391 TO 3391-12 G.C.
2. SUCH SUBSISTENCE AT PUBLIC EXPENSE TO A PERSON IN A COUNTY HOME OR COUNTY HOSPITAL NOT POOR RELIEF — OBLIGATION OF COUNTY — SECTION 3476 G.C.

## SYLLABUS:

1. The furnishing of food, clothing, shelter, medical care or other means of subsistence at public expense to a person not under county care under authority of Section 3476 of the General Code, having a legal settlement in the county, in a privately owned home or lodging house is "poor relief" within the meaning of that term as used in Sections 3391 to 3391-12, both inclusive, of the General Code.

2. The furnishing of food, clothing, shelter, medical care or other means of subsistence at public expense to a person in a county home or county hospital is not "poor relief" within the meaning of that term as used in subparagraph 9 of Section 3391-2 of the General Code, but is rather an obligation of the county, as such, under Section 3476 of the General Code.

Columbus, Ohio, August 26, 1942

Hon. Ralph J. Bartlett, Prosecuting Attorney,  
Columbus, Ohio.

Dear Sir:

I am in receipt of your request for my opinion reading:

"The Auditor of Franklin County has submitted the following matter for an opinion, and in view of its state-wide nature this office respectfully requests an opinion from your office thereon:

"In Case No. 28713 the Ohio Supreme Court has held that surplus monies arising out of the utility excise tax imposed by H.B. 501, are to be distributed to relief areas under H.B. 675, sub-paragraph 9, "in proportion to the obligations incurred for poor relief \* \* \* \* in the calendar month next preceding the receipt of such monies."

In order that surplus monies for the year 1941 and 1942

may be distributed properly it becomes necessary to determine just what expenses are to be included in the term "obligations for poor relief."

"Poor relief" is defined in Section 3391, Section 1, H.B. 675:

"Poor relief" means food, clothing, shelter, and other commodities and services necessary for subsistence, or the means of securing such commodities and services, furnished at public expense to persons in their homes, or, in the case of homeless persons, in lodging houses or other suitable quarters.

\* \* \* Poor relief may take the form of "work relief", "direct relief" or "medical care" as herein defined. \* \* \*

The term "direct relief" means poor relief without the performance of work therefor.

"Medical care" means medicines and the services, wherever rendered, of a physician or surgeon or the emergency services of a dentist, furnished at public expense. \* \* \*

Our specific question is this:

(a) When a person is provided with food, clothing, shelter, medical care, or other means of subsistence in a home, privately owned, are such expenditures to be considered as "obligations for poor relief"?

(b) When such items are provided to a person in a lodging house privately owned, are such expenditures to be considered as "obligations for poor relief"?

(c) When such items are provided to a person "in other suitable quarters", i.e. - a county owned home or lodging house, or county owned hospital, are such expenditures to be considered as "obligations for poor relief"?

The case to which you refer by Appearance Docket number in your request is that of State, ex rel. City of Columbus, v. Thatcher, Auditor, 139 O.S., 469, 22 O.Ops., 518, in which the court held that each of the poor relief areas created by House Bill No. 675, enacted in 118 O.L., 710 (since codified as Sections 3391 to 3391-12, both inclusive, General Code), was entitled to share in such distribution in proportion to the encumbrances in each such district respectively during the month preceding the receipts by the county treasury. As you

will recall, the Supreme Court gave as the reason for its conclusion in that case that such act created specific poor relief areas within a county and separate poor relief authorities to administer "poor relief" within the designated districts; and having so created such separate districts and agencies, in subparagraph 9 of Section 3391-2 of the General Code provided that:

"The moneys received by a county under any law other than this act providing for the distribution of state funds to counties for poor relief shall be paid into the county treasury to the credit of the proper funds therein; but in counties containing two or more local relief areas, or part or parts thereof, the proportional share of the county relief area as determined by the provisions of this act shall be paid into the treasury of the county relief area, and the proportional shares of the cities shall be distributed and paid by the county treasurer on the order of the county auditor to the treasurer of such city entitled thereto. Such distribution shall be made in proportion to the obligations incurred for poor relief in the respective local relief areas, and part or parts thereof in the county, during the calendar month next preceding the receipt of such moneys. \* \* \*"

In view of such language, the Supreme Court held that the city poor relief areas were, since the enactment of such law, entitled to share in the moneys resulting from taxes levied under authority of House Bill No. 501, as enacted in 116 O.L., 571, in the manner and to the extent directed in such section.

If, therefore, the distribution of the moneys in question is pursuant to the provisions of Section 3391-2 of the General Code, we must determine the meaning of the language contained in such section from the act of which it is a part. It is elemental that an act must be construed so as to arrive at the legislative intent in its enactment and that such intent must be derived from the language used by the lawmaker in its enactment. See *Board of Education v. Boal*, 104 O.S., 482, 486; *Smith v. Bock*, 119 O.S., 101, 103. As stated in 37 O.Jur., 526, Section 282:

"It is within the legislative power to define the sense in which words are employed in a statute."

and in Section 283:

"The lawmaking body's own construction of its language, by means of definitions of the terms employed, should be fol-

lowed in the interpretation of the act or section to which it relates or is intended to apply.”

As observed by Donahue, J., in *Ohio River Power Company v. City of Steubenville*, 99 O.S., 421, 425, “There is no better way to determine the intent and purpose of the legislature than by its own construction of the language used.”

In the act under consideration, the general assembly has in Section 3391 of the General Code, as though uncertain as to whether particular words in the act might not be properly construed, defined such terms “for the purposes of this act.” Such definition is as set forth in your request and as above quoted. However, as you are already familiar, Section 3391-2 of the General Code provides specifically the method of dispensing poor relief and in subparagraph 8 of such section has provided that cases where the indigent persons “do not have the necessary residence requirements,” “those who are permanently disabled,” “have become paupers” and “such other persons whose peculiar condition is such that they cannot be satisfactorily cared for except at the county infirmary or under county control,” are not to be included within the “poor relief” provided in such act. Such subparagraph reads:

“Except as modified by the provisions of this act, section 3476 and other sections of the General Code of like purport shall remain in full force and effect and nothing in this act shall be construed as altering, amending, or repealing the provisions of section 3476 of the General Code, relative to the obligation of the county to provide or grant relief to those persons who do not have the necessary residence requirements and to those who are permanently disabled or have become paupers and to such other persons whose peculiar condition is such that they cannot be satisfactorily cared for except at the county infirmary or under county control.”

In other words, it would appear that where support or maintenance is afforded by counties under authority of Section 3476 of the General Code it is not to be included within the “poor relief” provided for in such House Bill No. 675, whether for the purpose of state matching of expenditures, as provided in Section 3391-11 of the General Code, or otherwise. Such types of relief are to be furnished under Section 3476 of the General Code and not by the act of which Section 3391-2 of the General Code is a part. Expenditures for such purpose are not for obligations “incurred for poor relief in the respective local

relief areas," which consist of the city areas and county area outside of cities. They are made irrespective of the area from which recipient is taken or at which found. It would thus seem that under the terms of such House Bill No. 675 such expenditures could hardly be considered as "poor relief" as used therein. However, if I be incorrect in such view, nevertheless, it would seem that under the provisions of subparagraph 9 of Section 3391-2 of the General Code they could not be considered in determining the allocation fraction to be used in the division of poor relief funds between the county relief area and city relief areas, since such proportion must be determined by the proportion of obligations incurred for poor relief *in the respective local relief areas* or, when a city is located in two or more counties, in the part of the city poor relief area which lies within the geographic limits of the particular county in the proportion in which expenses were incurred during the preceding month by such local relief authority in that portion of its area.

It would thus seem that in computing the allocation of the funds in question between the county local relief area and the city local relief areas, the county auditor can consider only those expenses with respect to indigents incurred by the county commissioners in their capacity as the "county local relief authority" as distinguished from their capacity as county commissioners, and not those obligations incurred under authority of Section 3476 of the General Code which have been incurred in their capacity as county commissioners and not incurred with respect to any "local relief area" but rather with respect to the county as such.

Bearing such conclusion in mind when we refer to the definition of "poor relief" set forth in Section 3391 of the General Code, it will appear that if the indigent has a home or place of abode, poor relief, such as "food, clothing, shelter and other services necessary for subsistence" or the means of securing the same at public expense, may be furnished at no other place. Such is the limitation set forth in the definition of poor relief. The limitation contained in such definition is further emphasized in subparagraph 1 of Section 3391-2 of the General Code which prevents the dispensing of poor relief until the relief authority shall have made "proper home investigation" to determine the need, which home investigation must be repeated by the authority at intervals. Thus, if the condition of the indigent is such that he is

an institutional case, it is the duty of the county as distinguished from the county local relief authority to furnish such care under authority of Section 3476 of the General Code.

Under date of June 13, 1940, I rendered an opinion to the Prosecuting Attorney of Delaware County (Opinions of the Attorney General for 1940, Vol. 1, page 570) in which I discussed somewhat at length the obligations of the county with respect to indigents "whose peculiar condition is such that they cannot be satisfactorily cared for except at the county infirmary or under county control." The second, third and fourth paragraphs of the syllabus of that opinion read:

"2. In deciding whether indigents under 'county control', as that term is used in Section 3476, General Code, should be cared for in the county home or otherwise, the county should follow the procedure outlined in Sections 2544, 2557, 2557-1, 2557-3 and 3476, General Code, with the exception of the fact that the duties therein prescribed to be performed by the township trustees should now be performed by the board of county commissioners by reason of the provisions of House Bill No. 675 of the Ninety-third General Assembly.

3. Where an indigent person has been accepted by the county as a county home charge, the expense of his maintenance may not be paid from poor relief funds as defined in such House Bill No. 675.

4. Where an indigent has been accepted as a county charge, the county may not relieve itself of such charge unless it has been determined that he is no longer entitled to such relief for the causes mentioned in Section 3391-2, General Code."

The reasoning and conclusion in such opinion require your third inquiry to be answered in the negative.

You will observe that the definition of poor relief as set forth in Section 3391 of the General Code contains a less narrow limitation on "poor relief" in the case of "homeless persons." In the case of homeless persons, the definition of poor relief is "food, clothing, shelter, and other commodities and services, furnished at public expense to persons \* \* \* in lodging houses or other suitable quarters." It thus seems that in the case of homeless persons the definition of "poor relief" in Section 3391 of the General Code specifically answers your second inquiry.

In view of the foregoing and in specific answer to your inquiries, it is my opinion that:

1. The furnishing of food, clothing, shelter, medical care or other means of subsistence at public expense to a person not under county care under authority of Section 3476 of the General Code, having a legal settlement in the county, in a privately owned home or lodging house is "poor relief" within the meaning of that term as used in Sections 3391 to 3391-12, both inclusive, of the General Code.

2. The furnishing of food, clothing, shelter, medical care or other means of subsistence at public expense to a person in a county home or county hospital is not "poor relief" within the meaning of that term as used in subparagraph 9 of Section 3391-2 of the General Code, but is rather an obligation of the county, as such, under Section 3476 of the General Code.

Respectfully,

THOMAS J. HERBERT  
Attorney General.