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RELIEF AREA, LOCAL — SECTION 3391-1 G.C. — AGENCY OF GOVERNMENT — EXISTS TO ESTABLISH AND CONDUCT UNIFORM, COORDINATED AND EFFICIENT SYSTEM, POOR RELIEF — NOT ENTITY OR UNIT, LOCAL GOVERNMENT, AGAINST WHICH LEGAL OR MORAL OBLIGATION MAY BE CREATED — NOT LIABLE WHERE EMPLOYER'S NEGLIGENCE RESULTED IN PERSONAL INJURY AND PROPERTY DAMAGE TO ANOTHER.

SYLLABUS:

1. *A local relief area as the same is constituted under the provisions of Section 3391-1, General Code, is an agency of government that exists solely for the purpose of establishing and conducting a uniform, coordinated and efficient system of administering poor relief, and is not an entity or unit of local government against which a legal or moral obligation is capable of being created.*

2. *Neither a legal nor moral obligation against a local relief area is created when an employee of such local relief area, while in the performance of his duties in connection with the administering of poor relief, commits an act of negligence which directly results in personal injury and property damage to another.*

Columbus, Ohio, March 5, 1941.

Hon. Marvin A. Kelly, Prosecuting Attorney,  
Portsmouth, Ohio.

Dear Sir:

This will acknowledge receipt of your request for my opinion which reads in part, as follows:

“A truck owned by the Scioto County Engineering Department, which truck at the time was loaned and in use by the Relief Board composed of the county commissioners and being driven by an employe of the Relief Board, collided with an automobile of an individual while these automobiles were being operated upon state highway, resulting in property damage and injuries.

A certain claim has been made upon the commissioners as a result of the collision. At the time of the collision, the truck was

being used to transport surplus commodities.

It is the desire of the commissioners to allow this claim and to pay it if possible.

The questions are:

May the claim be paid; if so, from what fund? If not a legal obligation, then may the claim be paid as a moral obligation and how?"

The question you present concerns the authority of a local relief area to discharge a legal or moral obligation. It would appear that the injury and damage suffered by the claimant involved herein was a direct result of an act of negligence on the part of an employe of the local relief area, committed while in the performance of an official function.

Section 3391-1, General Code, creating the local relief areas and authorities, reads in part as follows:

"Commencing on the first day of July, 1939, the territory in each county outside the corporate limits of cities therein shall be a local relief area hereinafter referred to as the 'county local relief area,' the local relief authority for which shall be the board of county commissioners of the county; \* \* \*

If the county local relief area is not coextensive with the county, it shall constitute a special taxing unit on the taxable property within which the county commissioners of the county shall have authority to levy a tax for poor relief and to the electors within which the county commissioners shall have authority to submit the question of a special levy outside of the ten mill limitation for such purpose in the manner provided by sections 5625-15 to 5625-18, both inclusive, of the General Code. \* \* \* "

Section 3391-3, General Code, setting forth the powers and duties of the State Director of Welfare in regard to poor relief, reads as follows:

"The state director shall have the following powers and perform the following duties:

1. To study problems of poor relief; to approve budgetary standards for poor relief; to develop plans and procedures for the more effective administration of poor relief, and to advise with local relief authorities as to the conduct of such services; to adopt and promulgate rules governing the administration of poor relief by local relief authorities. Unless otherwise provided by law, all such rules shall be promulgated by mailing a certified copy thereof to each local relief authority and filing a certified copy thereof in the office of the secretary of state.

2. To request and receive advice, assistance and infor-

mation from any federal, state or local government agency and to furnish, upon request, to the United States department of labor, bureau of immigration and naturalization, the names of all alien applicants for poor relief and information relative to their entry into the United States.

3. To cooperate with agencies of the federal, state and local governments, and with private organizations engaged in the administration or financial support of activities pertaining either directly or indirectly to poor relief, and to coordinate his efforts therewith so far as it seems practicable and advisable.

4. To require such reports as he may deem necessary from local relief authorities, either directly, or through any county officer or board, and from such officer or board, in such form as he shall prescribe.

5. To examine from time to time the administration of poor relief by local relief authorities and to issue written notice to any such authority relative to changes he may deem necessary for the improvement of local poor relief administration or relative to the violation of the poor relief laws of the state or the rules and regulations of the state director, and calling upon such authority to appear at a time and place specified in such notice and show cause why such changes should not be effected or such violations should not cease. After the hearing to show cause the state director shall make a written order and forthwith serve a copy thereof upon the local relief authority, and until such order is complied with no further contribution of funds shall be made under section 12 of this act.

6. To establish a procedure under which a thorough cooperation is maintained between local relief authorities and federal agencies.

7. To investigate the eligibility of recipients of poor relief. He may purchase credit reports and services to establish the eligibility of recipients of poor relief. He shall order copies of all such reports and services to be furnished to the proper local relief authority. Ineligibles shall be denied poor relief as soon as the state director shall inform the local relief authority of such ineligibility.

8. To appoint the employes necessary in the administration of his powers and duties under this act, and to fix their compensation and prescribe their duties."

Since your inquiry concerns the power of the board of county commissioners as the local relief authority to pay the claim involved herein as a "moral obligation," it would appear that a definition of that term would be timely. "Moral obligation" has never been judicially defined by the courts of this state. However, in an opinion of one of my predecessors appearing in Opinions of the Attorney General for 1929, page 915, the then Attorney General defined the term so far as it applies to

the state or political subdivisions thereof as follows:

“A moral obligation of the State or a political subdivision thereof is a claim sounding either in tort or contract, whereby the State or political subdivision thereof, received some benefit, or the claimant suffered some injury, which benefit or injury would be the basis for a legal claim against the State or political subdivision, were it not that because of the intervention of technical rules of law, no recovery may be had.”

A study of the statutes quoted above reveals that the state director is the executive and administrative head in the administration of poor relief in this state and that the legislature has seen fit to bestow upon him very broad powers and authority in that regard.

A reading of the above statute, impels the conclusion that the legislature created the local relief area, not as a unit of local government having corporate and quasi corporate powers, but as a unit of administration for the sole purpose of establishing and conducting a uniform, coordinated and efficient system of poor relief.

In order for a legal or moral obligation to arise there must exist not only a state of facts which would constitute a legal or moral obligation and a claimant suffering some injury or detriment, but also some person or entity against which a legal or moral obligation is capable of being created.

For the reason that the local relief area is purely a ministerial agency of government and not an entity which is legally capable of being made the subject of a legal or moral obligation, it follows that there is no authority in law for the board of county commissioners as the local relief authority to expend the funds of the local relief area to discharge such obligations.

It is, therefore, my opinion in specific answer to your inquiry that:

1. A local relief area as the same is constituted under the provisions of Section 3391-1, General Code, is an agency of government that exists solely for the purpose of establishing and conducting a uniform, coordinated and efficient system of administering poor relief, and is not an entity or unit of local government against which a legal or moral obligation is capable of being created.

2. Neither a legal nor moral obligation against a local relief area

is created when an employee of such local relief area, while in the performance of his duties in connection with the administering of poor relief, commits an act of negligence which directly results in personal injury and property damage to another.

Respectfully,

THOMAS J. HERBERT,  
Attorney General.