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1. BURIAL EXPENSES—NOT “POOR RELIEF” AS DEFINED IN SECTIONS 3391 TO 3391-12 G. C.
2. INDIGENT PERSON RECEIVING POOR RELIEF—WHEN HE DIES IN COUNTY OF RESIDENCE—DUTY OF TOWNSHIP TRUSTEES WHERE BODY FOUND TO BURY INDIGENT AT EXPENSE OF TOWNSHIP WHERE PERSON HAD LEGAL RESIDENCE AT TIME OF DEATH—PROVISO, UNLESS BODY CLAIMED BY SOME PERSON FOR PRIVATE INTERMENT AT HIS OWN EXPENSE, OR DELIVERED FOR MEDICAL OR SURGICAL STUDY OR DISSECTION—SECTION 9984 G. C.

## SYLLABUS:

1. Burial expenses are not “poor relief” as defined in Sections 3391, 3391-1 to 3391-12, General Code.

2. When an indigent person who is receiving poor relief dies in the county of his residence, it is the duty of the township trustees of the township in which his body is found to bury the same at the expense of the township in which such person had a legal residence at the time of his death, unless such body is claimed by some person for private interment at his own expense, or delivered for the purpose of medical or surgical study or dissection in accordance with the provisions of Section 9984, General Code.

Columbus, Ohio, February 8, 1946

Hon. Earl Henry, Prosecuting Attorney  
Cambridge, Ohio.

Dear Sir :

Your request for my opinion sets forth the following pertinent facts :

One H whose residence and legal settlement was in Valley Township, Guernsey County, Ohio, was an inmate of the county home until March, 1945. At that time he left the county home of his own accord and returned to Valley Township to live with his mother, and the superintendent of the county home entered upon his record the fact of his discharge for that purpose. During the period from March, 1945, to November, 1945, he was self-supporting, or at least during that period he obtained no relief of any kind.

H became ill in November, 1945, and shortly thereafter was placed upon direct relief by the board of county commissioners, and through the agency of the relief director H's doctor bills were paid and a grocery order issued to him. About December 1, 1945 H died and was buried by a local funeral director.

With respect to this set of facts you have asked three questions :

1. Did the procedure of the Board of County Commissioners of Guernsey County in placing H on direct relief, paying his doctor bills and furnishing him groceries, make of him what is known as a "county charge" to the extent of rendering Guernsey County liable for payment of his funeral bill?
2. Is it the obligation of Guernsey County or of Valley Township to pay the funeral bill?
3. If it is the obligation of Guernsey County, is it to be paid out of poor relief funds or out of the general fund of the county?

Two separate types of public support or relief to indigent persons are now administered through the county commissioners. One is that which has for many years been the obligation of the county as such under the provisions of Section 3476, General Code. That section reads in part as follows :

"Subject to the conditions, provisions and limitations herein, the trustees of each township or the proper officers of each city

therein, respectively, shall afford at the expense of such township or municipal corporation public support or relief to all persons therein who are in condition requiring it. It is the intent of this act that townships and cities shall furnish relief in their homes to all persons needing temporary or partial relief who are residents of the state, county and township or city as described in sections 3477 and 3479. Relief to be granted by the county shall be given 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 they can not be satisfactorily cared for except at the county infirmary or under county control."

The second type is not the obligation of the county as such, but is what is designated "poor relief" as that term is defined in Sections 3391 to 3391-12, General Code, (H. B. 675, 118 O. L. 710).

The enactment of those sections transferred certain of those duties respecting relief formerly dispensed by boards of township trustees under authority of Section 3476, General Code, to county commissioners. Opinions of the Attorney General, 1939, Vol. II, page 1334.

The distinction between the two types of relief was graphically illustrated by my predecessor in an opinion appearing in the Opinions of the Attorney General, 1942, page 623. He there pointed out that Section 3391-2, General Code, contains subparagraph 8, reading as follows :

"8. 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."

Following the reference to said subparagraph 8, the opinion contains the following language :

"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 339I-11 of the General Code, or otherwise.”

The syllabus reads:

“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 339I to 339I-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 339I-2 of the General Code, but is rather an obligation of the county, as such, under Section 3476 of the General Code.”

Therefore, it is obvious that while H was in the county home it was the direct obligation of the county as such to furnish him relief, and he was, during that time a “county charge.” In other words, he was not then on “poor relief.” Had H died while in the county home, or while under “county control,” it would have been the obligation of the county commissioners to pay the expense of his burial. See Opinions of the Attorney General, 1927, Vol. II, page 938; Opinions of the Attorney General, 1928, Vol. II, page 1502; Opinions of the Attorney General, 1932, Vol. III, page 1387, and Opinions of the Attorney General, 1940, Vol. I, page 652.

However, you have stated that in March, 1945, H was discharged to return to his home; that he did return and was self-supporting until November, 1945. Therefore, I am impelled to the conclusion that to all intents and purposes H was no longer under county control as a “county charge;” and apparently this was the conclusion of the Superintendent of the county home, as is indicated by his notation of discharge upon H’s record. Having thus been released as a “county charge” did the supplying of direct relief by the county commissioners in November, 1945, have the effect of reinstating H as a “county charge”? The answer to this question is quite clear because, as indicated above, the supplying of direct relief such as food and medical care under authority of Section 3476 is “poor relief” within the meaning of Section 339I, et seq., General Code.

Since H was, by reason of the supplying of food and medical care in his home, receiving "poor relief" rather than relief as a "county charge," we pass to your second question as to whether it is the obligation of the county or of the township to pay the funeral bill.

The answer to this question depends upon the definition of "poor relief," because by the enactment of House Bill No. 675 (Sections 339I, 339I-1 to 339I-13, General Code) the Legislature has taken from boards of township trustees all their duties with reference to poor relief, as that term is defined in Section 339I, General Code. Such act has placed in boards of county commissioners the duty of administering poor relief "to all persons therein in need of poor relief" within that portion of the county which lies outside of the geographical limits of the cities, (see Sections 339I-1 and 339I-2, General Code) in addition to that authorized by Section 3476, General Code, which includes that described in Section 2544, General Code.

Section 339I, General Code, defines "poor relief" as follows :

"'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. Payments for shelter shall not exceed the average rental for comparable types of shelter in the area in which such shelter is provided. Average rentals shall be determined by local relief authorities subject to the approval of the state director. Poor relief may take the form of 'work relief,' 'direct relief' or 'medical care' as herein defined. 'Poor relief,' as herein used, shall be synonymous with 'poor relief' as used in Amended Senate Bill No. 4, entitled, 'An act to provide for submitting the question of levying additional taxes to the electors of the subdivision at a special election in the years 1939 and 1940, to authorize the making of such levy, and to amend section 5625-17a of the General Code, and to declare an emergency,' passed May 17, 1939, approved May 22, 1939, and filed in the office of the secretary of state, May 22, 1939, and in Amended Substitute Senate Bill No. 40, entitled, 'An act to amend Sections 629I and 6309-2 of the General Code, relative to the levy and distribution of the motor vehicle license tax, and to declare an emergency.' passed May 22, 1939, approved May 29, 1939, and filed in the office of the secretary of state May 29, 1939, and in other acts heretofore passed providing poor relief to needy persons."

It is readily apparent that the definition of "poor relief," as contained in such act, does not include cost of burial unless it be by reason of the language, "'Poor relief,' as herein used, shall be synonymous with 'poor relief' as used in Amended Senate Bill No. 4, entitled, 'An act to provide for submitting the question of levying additional taxes to the electors of the subdivision at a special election in the years 1939 and 1940, to authorize the making of such levy, and to amend section 5625-17a of the General Code \* \* \*'." When we refer to such Amended Senate Bill No. 4, we do not find any definition of the term "poor relief." It, therefore, appears to be the intent of the legislature to limit the expenditure of funds produced by compliance with the provisions of such act to "poor relief," as defined in Section 3391, General Code, rather than to broaden the meaning of the term as so defined. Similar conclusions follow from the requirement that "poor relief" as used in such House Bill No. 675 shall be synonymous with the term as used in Amended Senate Bill No. 40, and for like reasons.

Furthermore, Section 3391-2, General Code, contains subparagraph 8 quoted above. This provision specifically states in effect that duties not within the definition of "poor relief" are not transferred to the county commissioners because "except as modified by the provisions of this act, section 3476 and other sections of like purport shall remain in full force and effect." Obviously "other sections of like purport" are those sections of the laws of this state relating to relief of the poor and care of the indigent and paupers. One such statute is Section 3495, General Code, reading as follows:

"When the dead body of a person is found in a township or municipal corporation, and such person was not an inmate of a penal, reformatory, benevolent or charitable institution, in this state, and whose body is not claimed by any person for private interment at his own expense, or delivered for the purpose of medical or surgical study or dissection in accordance with the provisions of section 9984, it shall be disposed of as follows: If he were a legal resident of the county, the proper officers of the township or corporation in which his body was found shall cause it to be buried at the expense of the township or corporation in which he had a legal residence at the time of his death; if he had a legal residence in any other county of the state at the time of his death, the infirmary superintendent of the county in which his dead body was found shall cause it to be buried at the expense of the township or corporation in which he had a legal residence at the time of his death, but if he had

no legal residence in the state, or his legal residence is unknown, such infirmary superintendent shall cause him to be buried at the expense of the county.

It shall be the duty of such officials to provide at the grave of such person, a stone or concrete marker on which shall be inscribed the name and age of such person, if known, and the date of death."

Applying the provisions of this section to the situation produced by the facts you have recited, it becomes at once apparent that H was not at the time of his death an inmate of a penal, reformatory, benevolent or charitable institution, and that he did have a legal residence in the county. Therefore, unless the body was claimed by some person for private interment at his own expense, or delivered for the purpose of medical or surgical study or dissection in accordance with the provisions of Section 9984, General Code, it was the duty of the proper officers of the township to cause the body to be buried at township expense. That this duty of the township trustees was not transferred to the county commissioners by the enactment of House Bill No. 675 has already been discussed, but if further authority is needed upon this subject, attention may be called to an opinion appearing in the Opinions of the Attorney General, 1939, Vol. II, page 1264. That opinion was principally concerned with the designation of township trustees as agents of the county commissioners in poor relief matters, but in the course of the opinion I find at page 1267 this statement:

"I do not intend herein to give the impression that House Bill No. 675 relieves the township trustees from their duties to render hospitalization or medical services to indigents under authority of Section 3480-1, G. C., nor burial services to indigents under authority of Section 3495-3496, G. C., nor to relieve the township trustees of other duties with reference to indigents not coming within the purview of 'poor relief' as found in House Bill No. 675."

Therefore, in answer to your second question, you are advised that in my opinion it is the obligation of the township to pay the funeral bill of H. Furthermore, this conclusion makes it unnecessary to answer your third question.

Respectfully,

HUGH S. JENKINS

Attorney General