

a sufficient subject of assignment, no reason is perceived why the right of the agricultural society to receive these funds in the future is not also a valid subject of assignment.

For these reasons and in specific answer to your question, I am of the opinion that:

1. Where title to the site on which a county agricultural society holds its fairs is in the board of county commissioners, the agricultural society may, with the consent of the board of county commissioners duly entered on their journal, mortgage the real estate so used to an amount not exceeding fifty per cent of its value for the purpose of paying the cost of necessary repairs and improvements thereto. The value of such real estate must be determined for such purposes by appraisers appointed by the county commissioners pursuant to Section 9908, General Code.

2. A county agricultural society may, in order to provide for the payment of a loan obtained by it to construct improvements on the county fairgrounds assign to the person making the loan one-half of the funds which it receives pursuant to Sections 9880, 9880-2, 9887 and 9894, General Code, to be applied as payments on said loan and such assignment is binding and effective.

Respectfully,

THOMAS J. HERBERT,
Attorney General.

1125.

REST AND CONVALESCENT HOMES—SHOULD BE INSPECTED BY DEPARTMENT OF INDUSTRIAL RELATIONS—SECTION 1031 G. C.

SYLLABUS:

Rest and convalescent homes are included under the provisions of Section 1031 of the General Code of Ohio and should be inspected by the Department of Industrial Relations.

COLUMBUS, OHIO, September 2, 1939.

HONORABLE GEORGE A. STRAIN, *Director, Department of Industrial Relations, Columbus, Ohio.*

DEAR SIR: This will acknowledge the receipt of a request from your office for my opinion, which reads as follows:

“The Department of Public Welfare and its Division of Aid for the Aged, the Department of Health, the State Fire

Marshal's office and the Department of Industrial Relations have had several conferences in an attempt to correct the evils and abuses existing and prevalent as the result of the operation of many so-called convalescent and rest homes in this state.

Section 1031 of the General Code of Ohio provides:

'Inspection of school-houses and other buildings.—The department of industrial relations shall cause to be inspected all school houses, colleges, opera houses, halls, theaters, churches, infirmaries, children's homes, hospitals, medical institutes, asylums, and other buildings used for the assemblage or betterment of people in the state. Such inspection shall be made with Special reference to precautions for the prevention of fires, the provision of fire escapes, exits, emergency exits, hallways, air space, and other matters which relate to the health and safety of those occupying, or assembled in, such structures. (110 v. 280; 99 v. 232, No. 1 Eff. July 19, 1923.)'

We would like to have a formal opinion from your office for the purpose of ascertaining if the above section is broad enough to include convalescent and rest homes."

The question presented in your communication requires a consideration of the provisions of Section 1031 of the General Code, enacted in 1908 by the 77th General Assembly, for the purpose of enlarging the powers of the chief inspectors of workshop and factories in the matter of public schools and other buildings and to increase the number of district inspectors. The said section was later amended to its present form by the 85th General Assembly in 1923.

At the time of the enactment of Section 1031, *supra*, rest homes were practically unknown. However, in the past ten years these places have multiplied until today there are a great number in existence. In many cases they are private homes that have been converted to this use and I am advised that in many instances your department finds they are overcrowded and the rules of safety disregarded. Unsafe conditions obviously should be corrected for the benefit of those elderly, infirm and convalescent persons residing in these homes.

Section 1031, *supra*, enumerates the following types of buildings: Infirmery, asylum and hospital. "Infirmery" is defined by Webster's New International Dictionary as follows: "A hospital, a place where the infirm or sick are lodged and nursed, gratuitously, or where patients who are not residents are treated." Webster defines "asylum" as follows: "A place of retreat and security." "Hospital" is defined as being "An institution or place in which sick or injured are given medical or surgical care." Webster defines "convalescent" to mean "one recovering from sickness."

Rest homes are often called convalescent homes and the terms are used synonymously. The definitions set out above can be likened to rest or convalescent homes, as they are of the same character or classification as asylums, infirmaries and hospitals. Inasmuch as these so-called rest homes were not commonly in existence at the time Section 1031, *supra*, was originally enacted, it may be argued that the Legislature did not intend to include them. Such a contention, however, would not be sound.

In the case of *State vs. Cleveland*, 83 O. S., 61, the syllabus reads as follows:

“A statute may include by inference a case not originally contemplated when it deals with a genus within which a new species is brought. Thus a statute making it unlawful to willfully throw a stone at a railroad car includes an interurban or traction railway car, although such cars were not known or in use at the time the statute was enacted.”

People v. Kriesel, 136 Mich., 80.

U. S. v. Nihols, 4 McLean (U. S.), 25.

In the case of *Doyle vs. Doyle*, 50 O. S., 330, the first branch of the syllabus reads as follows:

“That which is implied in the language of a statute is as much a part of it as that which is expressed.”

An application of the doctrine “*eiusdem generis*” impels an affirmative answer to your inquiry.

Black on Interpretation of Laws, Section 33, says:

“Every statute is understood to contain by implication, if not by express terms, all such provisions as may be necessary to effectuate its object and purpose, or to make effective the rights, powers, privileges or jurisdiction which it grants, and also all such collateral and subsidiary consequences as may be fairly and logically inferred from its terms.”

Section 63, Black on Interpretation of Laws, reads:

“It is a general rule of statutory construction that where general words follow an enumeration of persons and things, by words of a peculiar and specific meaning, such words are not to be construed in their widest extent but are to be held as applying only to persons or things of the same general kind or class as

those specifically mentioned. But this rule must be discarded where the legislative intention is plain to the contrary."

Therefore, in light of the above, and in specific answer to your inquiry, I am of the opinion that Section 1031 of the General Code includes by implication convalescent and rest homes and should be inspected by the Department of Industrial Relations.

Respectfully,

THOMAS J. HERBERT,
Attorney General.

1126.

POOR RELIEF FUNDS—BOARDS OF TOWNSHIP TRUSTEES
—AUTHORIZED TO TRANSFER TO COUNTY FOR SUCH
PURPOSE—LANGUAGE SECTION 5625-13h G. C. PERMISSIVE
NOT MANDATORY—STATUS WHERE LEGAL DIS-
POSITION OF SUCH FUNDS.

SYLLABUS:

1. *Boards of township trustees are authorized by Section 5625-13h, General Code, to transfer any poor relief funds in their possession to the county for poor relief purposes.*

2. *The language of Section 5625-13h, General Code, is permissive and not mandatory. Such section does not require the board of township trustees to transfer to the county poor relief funds in its custody when such funds may otherwise be legally used. See Opinion 1484, December 1, 1939, page 2189.*

COLUMBUS, OHIO, September 2, 1939.

HONORABLE THOMAS J. O'CONNOR, *Prosecuting Attorney, Toledo, Ohio.*

DEAR SIR: Your request for my opinion reads:

"On July 1, 1939, the date when amended substitute house bill No. 675 became effective, some of the townships of Lucas County still had unexpended funds remaining in the poor relief fund which they had established, for the year 1939.

Can they legally turn the balance of these funds over to the county to be used by it for relief purposes *in the township from which it came?*

If your answer to the above question is in the affirmative, are they required to turn such unexpended balances over to the county?"