

6542

LEGAL SETTLEMENT—SECTION 2151.36 RC—REFERENCE TO TERM AS DEFINED IN SECTION 5113.05 RC.

SYLLABUS:

The term "legal settlement" as used in Section 2151.36, Revised Code, has reference to that term as defined in Section 5113.05, Revised Code.

Columbus, Ohio, May 1, 1956

Hon. John S. Bath, Prosecuting Attorney  
Fayette County, Washington C. H., Ohio

Dear Sir:

Your request for my opinion reads as follows:

"An opinion of your office is requested as to whether or not the term 'legal settlement' as used in Section 2151.36, Revised Code of Ohio, is subject to the same interpretation as the term

'legal settlement' as used and defined in Section 5113.05, Revised Code of Ohio, and if not what interpretation is applicable."

By referring to Section 5113.05, Revised Code, you will observe that the term "legal settlement" is therein defined "for the purpose of Sections 5113.01 to 5113.14, inclusive, of the Revised Code." It is obvious from this that such definition does not, by its own terms, relate to the term "legal settlement" as used in Section 2151.36, Revised Code. This being the case, it remains only to inquire whether Section 2151.36 was enacted in such circumstances as to indicate a legislative intent to use such term in the same sense as it is now defined in Section 5113.05, Revised Code.

The term "settlement," in the sense in which here employed, is defined in Webster's New International Dictionary, Second Edition, as follows:

"A settled place of abode; residence; a right growing out of residence; legal residence or establishment of a person in a particular parish or town, which entitles him to maintenance if a pauper, and subjects the parish or town to his support. In general, a minor's settlement is that of his parent; a married woman's that of her husband."

The definition of "legal settlement" as presently set out in Section 5113.05, Revised Code, was enacted in 1949 as Section 3391-16, General Code, although it was amended in a minor way in 1953. 125 Ohio Laws, 418.

This definition was formerly set out in Section 3477, General Code, repealed in 1949 with the enactment of Section 3391-16, General Code. Former Section 3477, General Code, as amended in 1927, 112 Ohio Laws, 157, read as follows:

"Each person shall be considered to have obtained a legal settlement in any county in this state in which he or she has continuously resided and supported himself or herself for twelve consecutive months, without relief under the provisions of law for the relief of the poor, or relief from any charitable organization or other benevolent association which investigates and keeps a record of facts relating to persons who receive or apply for relief."

This section was originally enacted as Sections 12 and 13 of an act "for the relief of the poor \* \* \*" enacted April 12, 1876. Such Sections 12 and 13 read as follows:

“Section 12. Every person shall be considered to have obtained a legal settlement in any county in this state, in which he or she shall have continuously resided and supported himself or herself for twelve consecutive months, without relief, under the provisions of this act, subject to the following exceptions, viz.:

“First—An indentured servant or apprentice legally brought into this state shall be deemed to have obtained a legal settlement in any township in which such servant or apprentice shall have served his or her master or mistress for one year continuously.

“Second—The wife or widow of any person whose last legal settlement is or was in any township in this state shall be considered to be legally settled in the same township; but if she shall not have obtained a legal settlement in this state, then she shall be deemed to be legally settled in the place where her last legal settlement was previous to her marriage.

“Section 13. The settlement which a person has or shall have legally obtained in any township shall continue to be therein until he or she shall have obtained a legal settlement elsewhere.”

Reference to the requirement of legal settlement under much earlier poor relief laws is found in *Trustees v. Trustees*, 3 Ohio, 100 (1827), the syllabus in which reads:

“A minor obtains a settlement in the township where his father was legally settled, and can by no act of his own, whilst a minor, obtain a legal settlement elsewhere.”

It is thus quite evident that the term “legal settlement” is one which has long been known to the law in this state, and as one which has had application primarily in the field of legislation making provision for the indigent, and more precisely to the problem of determining which public subdivision, if any, is responsible therefor.

By referring to the history of Section 2151.36, Revised Code, it will be noted that the terms “legal settlement” was first used therein in the enactment, in 1937, of former Section 1639-34, General Code. 117 Ohio Laws, 520, 531. In a prior analogous statute, former Section 1653, General Code, reference was made to the “settlement” of children committed by the juvenile court. This term was originally placed in this statute in 1913. 103 Ohio Laws, 864, 872.

The 1913 enactment, so far as here pertinent, read as follows:

“When a minor under the age of eighteen years, or any ward of the court under this chapter, is found to be *dependent or neglected*, the judge may make an order committing such child to the care of the children’s home if there be one in the county where such court is held, if not, to such a home in another county, if willing to receive such child, for which the county commissioners of the county in which it has a *settlement*, shall pay reasonable board; or he may commit such child to the board of state charities or to some suitable state or county institution, or to the care of some reputable citizen of good moral character, or to the care of some training school or an industrial school, as provided by law, or to the care of some association willing to receive it, which embraces within its objects the purposes of caring for or obtaining homes for dependent, neglected or delinquent children or any of them, and which has been approved by the board of state charities as provided by law.” (Emphasis added.)

It is obvious from this language that the General Assembly was concerned with providing a form of public assistance for dependent or neglected children, the former defined in Section 1645, General Code, enacted in the same act, to include those who are “dependent upon the public for support.”

Analogous provisions are now set out in Section 2151.36, Revised Code, as follows:

“\* \* \* Any expenses incurred for the care, support, maintenance, education, medical or surgical treatment, special care of a child, which has a *legal settlement* in another county, shall be at the expense of the county of *legal settlement*, if the consent of the juvenile judge of the county of *legal settlement* is first obtained. When such consent is obtained, the board of county commissioners of the county in which such child has a *legal settlement* shall reimburse the committing court for such expense out of its general fund. If the department of public welfare deems it to be in the best interest of any delinquent, dependent, or neglected child which has a *legal settlement* in a foreign state or country, that such child be returned to the state or county of *legal settlement*, such child may be committed to the department for such return. \* \* \*” (Emphasis added.)

Because the legislature was concerned, in these enactments relative to juvenile court jurisdiction, with providing a form of public assistance to a limited class of persons dependent in part at least upon the public for support, and with fixing the responsibility therefor upon particular counties, I am impelled to the conclusion that the terms “settlement” and

“legal settlement” were used therein in the same sense in which such terms were currently defined in the poor relief laws. Thus it follows that in the 1937 enactment, above noted, in former Section 1639-34, General Code, now Section 2151.36, Revised Code, it was intended the term “legal settlement” should signify the meaning given it in the 1927 enactment of former Section 3477, General Code. Further support is given this view by the long history of statutory definition of the term, with which the General Assembly must be presumed to be familiar, and the vagueness of any term including the word “legal” in the absence of such statutory definition.

This conclusion is not entirely without precedent. In *Moody County v. Minnehaha County*, (S.D.) 96 N.W. 698, the court held that the term “legal settlement,” as used in a statute relating to the care of insane persons, not being defined in the act in question, would be accorded the same meaning given it by definition in the poor relief laws.

This conclusion brings us to the further question of the effect of subsequent amendments of the statutory definition, now set out in Section 5113.05, Revised Code, on the meaning of the term “legal settlement” as used in Section 2151.36, Revised Code.

The history of the latter section indicates it was last amended in 1945. See Section 1639-34, General Code; 121 Ohio Laws, 557, 565. By again using the term “legal settlement” in this amendment and reenactment, without providing any special definition of it therein, we must presume that the legislature intended to use it in the same sense as it was currently defined in the poor relief laws. Such definition was then set out in former Section 3477, General Code, as follows:

“Each person shall be considered to have obtained a legal settlement in any county in this state in which he or she has continuously resided and supported himself or herself for twelve consecutive months, without relief under the provisions of law for the relief of the poor, or relief from any charitable organization or other benevolent association which investigates and keeps a record of facts relating to persons who receive or apply for relief. No adult person coming into this state and having dependents residing in another state, shall obtain a legal settlement in this state so long as such dependents are receiving public relief, care or support at the expense of the state, or any of its civil divisions, in which such dependents reside.”

The definition thus set out was amended in 1949, 123 Ohio Laws, 607, 609, and again in 1953, 125 Ohio Laws, 418. What is the effect of such subsequent amendments?

It is apparent from all that has been said above that the legislature, in using the term in question in the juvenile court code, had chosen to employ words having a special legal significance based on statutory definition, and one which is without any popular or ordinary meaning aside from such special definition. In such case there is a presumption that the "borrowed" term is used in the same sense as it is understood in the field whence it was borrowed. See Crawford on Statutory Construction, 319 et seq., Section 187.

In this situation it can be presumed that subsequent amendments of the definition in the poor relief laws were made in the knowledge that such amendment would have its effect on the juvenile code, especially in view of the continued legislative failure to supply any other definition for application therein.

For these reasons I conclude that the term "legal settlement" as used in Section 2151.36, Revised Code, has reference to that term as defined in Section 5113.05, Revised Code.

Respectfully,

C. WILLIAM O'NEILL  
Attorney General