

must be a relative of the member or that he be of any particular status at the time of the death of the member or at the time of the nomination. A stranger so far as relationship to the member is concerned, might lawfully be so nominated. Neither can it be said by any course of reasoning or logic that a person so nominated by a member must have an insurable interest or a right to the accumulated contributions of the member and thereby acquire a vested interest in the member's contributions, as is the case of a beneficiary under a policy of insurance acquired from an old line insurance company upon the application of the insured.

The statute with which we are here dealing, Section 7896-41, *supra*, directs that the accumulated contributions of a member of the State Teachers' Retirement System, in case of the member's death or retirement, shall be paid to the "person" nominated by the member to receive such contribution, and where a "person" is so designated by name, followed by the descriptive words "whose relationship to me is that of wife", it is the person named that the member meant to nominate to receive the contributions. The term "wife" should be regarded as merely descriptive of the person named and to state merely a status existing at the time of the nomination for the purpose of identifying the particular person. There is nothing in the law or in any action of the member to require or indicate that the relationship of wife or the status thus described should necessarily continue to or exist at the time of the death of the member, when the accumulated contributions become due and payable.

I am therefore of the opinion that in the case mentioned in your letter, the member's accumulated contributions should be paid by the State Teachers' Retirement Board to the former wife of the member in accordance with the member's designation of the person to receive those accumulated contributions.

Respectfully,

JOHN W. BRICKER,  
*Attorney General.*

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2332.

HOSPITAL—ENTITLED TO REIMBURSEMENT FOR CARE AND TREATMENT OF INDIGENT PATIENTS SUFFERING MOTOR VEHICLE INJURIES WHEN—H. B. NO. 80 CONSTRUED.

*SYLLABUS:*

1. *Hospitals entitled to the benefits of House Bill No. 80 of the 90th General Assembly are entitled to reimbursement for the care and treatment of non-resident indigent patients suffering motor vehicle injuries within this state, which injuries occurred on or after the effective date of the act.*

2. *Such hospitals are not entitled to reimbursement for the care and treatment of residents who suffered motor vehicle injuries outside of the confines of the state even though such patients are brought back to the hospitals of this state for treatment.*

3. *Such hospitals are not entitled to reimbursement for caring for non-resident persons injured in other states and brought to hospitals in Ohio for treatment.*

4. *Such hospitals should not charge to the state fund the accounts of indi-*

gent persons who suffered motor vehicle injuries prior to the effective date of House Bill No. 80.

5. The phrase "or like representative of a social agency engaged in the relief of the poor" as used in paragraph 5 of section 4 of House Bill No. 80 discussed.

6. Definition of "indigent patient" discussed.

COLUMBUS, OHIO, February 28, 1934.

HON. GLEN M. DAILY, Registrar of Motor Vehicles, Columbus, Ohio.

DEAR SIR:—I am in receipt of your communication with respect to the following:

"In the determination of the recently enacted House Bill No. 80 relative to the reimbursement of hospitals due to motor vehicle accidents, several questions have arisen covering this House Bill, that we respectfully request your formal opinion. They are as follows:

Are hospitals entitled to reimbursement for the following:

1st—Non-residents injured in this State?

2nd—Residents of the State injured out of the State but brought back to hospitals in this State for treatment.

3rd—Non-residents injured in other states and brought to hospitals in the state for treatment.

Hospitals located in cities near the border of the State are interested in the above questions.

4th—Should the account of indigent persons who were injured and admitted to hospitals before October 9th, but remain in the hospital after that date, be charged to this fund, beginning October 9th to the time of their discharge from the hospital.

5th—Should the accounts of persons injured before October 9th, but admitted to hospitals after October 9th, be charged to the fund. Some private institutions who were excluded by this Act have transferred patients to other hospitals after October 9th.

6th—Hospitals must secure a statement regarding financial condition of the patient from a township trustee, municipal officer or director or like representative of a social agency engaged in the relief of the poor. Under this paragraph, will you accept the following: (a) Signature of a representative distributing Federal, State and local relief funds? (b) Signature of a county officer who investigates persons receiving Federal, State and local relief funds. (c) Signature of a welfare worker of a corporation who has handled all their relief work for their former employes, furnishing them food, clothing, groceries, etc. (d) Signature of a central agency (such as Cleveland) which does the investigating for all relief agencies including the charity patients accepted by the hospitals. (e) Signature of a social worker of a hospital which has a well developed social service department whose report is accepted by agencies dispensing Federal, State and local relief.

7th—When is a person indigent?"

House Bill No. 80 is entitled, "An Act to provide reimbursement for hospitals on account of expenses of the care of indigent persons injured in motor vehicle accidents and to amend sections 6291 and 6309-2 of the General Code." This Act became effective on October 9, 1933.

By virtue of section 10 of this act, Section 6291 of the General Code was amended to read as follows:

"An annual license tax is hereby levied upon the operation of motor vehicles *on the public roads or highways of this state*, for the purpose of enforcing and paying the expense of administering the law relative to the registration and operation of such vehicles, maintaining and repairing public roads, highways and streets, paying the counties' proportion of the cost and expenses of co-operating with the department of highways in the improvement and construction of state highways, paying the counties' portion of the compensation, damages, cost and expenses of constructing, reconstructing, improving, maintaining and repairing roads, and for the use of the general funds of the counties and the townships *and for the purpose of enforcing and paying the expense of administering the law to provide reimbursement for hospitals on account of the expenses for the care of indigent persons injured in motor vehicle accidents*, and as to the tax levied between the effective date of this act and March 1, 1933, for the purpose of providing poor relief in the various counties of this state. Such tax shall be at the rates specified in this chapter and shall be paid to and collected by the registrar or deputy registrar at the time of making application for registration as herein provided." (Italics the writer's.)

Section 1 of this act reads in part:

"For the purpose of this act:

'Motor vehicle injury' means any personal injury suffered by a human being and caused by the operation of a motor vehicle, whether the injured person be the operator of such motor vehicle, a passenger in the same or in another vehicle, a pedestrian, or whatever be the relation of such injured person to the operation of such vehicle; and whether or not such motor vehicle is under the control of a human being at the time of such injury.

\* \* \*

\* \* \*

\* \* \*

'Indigent patient' means a person who has suffered a motor vehicle injury, is received and cared for in a hospital, is unable to pay for the cost of such care and whose account therefor remains unpaid at the expiration of ninety days after the termination of such care; it excludes an employee suffering from a motor vehicle injury with respect to which he is entitled to the benefits of the workmen's compensation act of this or any other state or country. A person injured by the operation of a motor vehicle shall be deemed unable to pay such charges if it shall appear that, should an action be brought and judgment secured for the amount thereof against him, or against any other person legally responsible for his care, execution thereon would be unavailing."

The above provisions of House Bill No. 80 are the only ones which I find relevant to the first three inquiries you present.

Although these particular sections are couched in very broad phraseology, they are, of course, subject to a rational and common sense construction precluding them from having an extra-territorial effect. The evident legislative intent is to

reimburse particular hospitals for the expense of caring for "indigent patients" injured in automobile accidents which occur within the confines of the state of Ohio. It is stated in 25 R. C. L., at pages 781, 782 and 783:

"As a general rule, no law has any effect, of its own force, beyond the territorial limits of the sovereignty from which its authority is derived. (Citing *Hilton vs. Guyot*, 159 U. S. 113; *Walbridge vs. Robinson*, 22 Idaho 236; *McCarthy vs. Chicago, etc., R. Co.*, 18 Kans. 46; *Stanley vs. Wabash, etc., R. Co.*, 100 Mo. 435; *State vs. Wright*, 251 Mo. 325, Ann. Cas. 1915 A, 588, and other cases). Unless the intention to have a statute operate beyond the limits of a state is clearly, expressly or reasonably to be inferred from the language of the act, or from its purpose, subject matter, or history, the presumption is that the statute is intended to have no extraterritorial effect, and it is to be so construed. (Citing *State vs. Lancashire F. Inc. Co.*, 66 Ark. 466; *Kenneroson vs. Thomes Towboat Co.*, 89 Conn. 367; *Walbridge vs. Robinson, supra*, and other cases.) This is the rule for construing statutes which use general words, unless they clearly indicate a different intention. (Citing *State vs. Peet*, 80 Vt. 449, 14 L. R. A. (N. S.) 677.) \* \* \* Although the legislature may use general words, such as 'any' or 'all', in describing the persons or acts to which the statute applies, still it does not follow that the law has any extraterritorial effect. (Citing *State vs. Lancashire, supra.*)"

Further substantiating this, Section 6291, General Code, supra, provides for a tax upon the operation of motor vehicles for their operation on the highways of this state, and it could hardly be interpreted from a reading of that section that this Ohio motor vehicle tax was meant to be used for reimbursement for injuries occurring without the State of Ohio. To so construe this Act would make the State of Ohio a haven for indigents injured without the state to the detriment of Ohio motor vehicle taxpayers. Consequently, it is safe to conclude that the Act was not intended to have any extraterritorial effect but was intended to provide for indigents injured within the State of Ohio.

It is my opinion, therefore, with reference to your second and third questions, that the Ohio hospitals in question are not entitled to reimbursement from the state for motor vehicle injuries suffered by indigent non-residents injured in other states, nor to resident indigents injured in other states.

With reference to your first question, however, section 1, providing "motor vehicle injury" means any personal injury suffered by a human being caused by the operation of a motor vehicle \* \* \*", and the definition of "indigent patient", supra, are sufficiently broad in their scope to embrace non-resident indigents when the motor vehicle injuries occur within the state of Ohio. Hence, it is my opinion that the Ohio hospitals in question are entitled to reimbursement for the care of indigent persons who are non-residents of Ohio if the motor vehicle injuries occurred within the state of Ohio. The entire Act is expressive of humanitarian purposes and is to secure prompt hospital treatment for all indigents incurring motor vehicle injuries within the confines of the state.

Section 4 of the Act, which has reference to the monthly reports of hospitals for reimbursement, provides in part:

"Each such claim shall be made in the form prescribed by the registrar of motor vehicles and shall show the following:

\* \* \*

\* \* \*

\* \* \*

5. The affidavit of the indigent patient, if living, and the statement of a township trustee, municipal officer or director or like representative of a social agency engaged in the relief of the poor, having knowledge of the facts, showing that the indigent patient is unable to pay such hospital charges. \* \* \*."

This section refers to *all* claims, so the hospital in making reports, in addition to the obtaining of the affidavit of the non-resident indigent, if living, will also have to obtain the statement of the officer outside of the state or the outside social agency as required by this section, in making its application for reimbursement.

With respect to your fourth and fifth inquiries, I call your attention to the fact that House Bill No. 80 did not become effective as a law until October 9, 1933. The Act is prospective in nature and should not be regarded as having a retroactive effect. It is stated in 25 R. C. L. at pages 787, 788 and 789:

"It is a maxim, which is said to be as ancient as the law itself, that a new law ought to be prospective, not retrospective in its operation. *Nova constitutio futuris formam imponere debet, no praeteritis.* \* \* \* a construction which gives to a statute a retroactive operation is not favored. (Citing *Winfree vs. Northern Pac. R. Co.*, 227 U. S. 296; *State vs. Iowa Telephone Co.*, 175 Ia. 607; *Murphy vs. Com.*, 172 Mass. 264; *Lewis vs. Pennsylvania R. Co.*, 220 Pa. St. 317, 18 L. R. A. (N. S.) 279, and other cases.), and such effect will not be given unless it is distinctly expressed or clearly and necessarily implied that the statute is to have a retroactive effect. (Citing *City R. Co. vs. Citizens St. R. Co.*, 166 U. S. 557; *Cameron vs. U. S.*, 231 U. S. 710; *Northfoss vs. Welch*, 116 Minn. 62, 133 N. E. 82, Ann. Cas. 1913 A, 1257, 36 L. R. A. (N. S.) 578, etc.) There is always a presumption that statutes are intended to operate prospectively only, and words ought not to have a retrospective operation unless they are so clear, strong and imperative that no other meaning can be annexed to them, or unless the intention of the legislature cannot be otherwise satisfied. (Citing *U. S. vs. Burr*, 159 U. S. 78; *U. S. vs. American Sugar Refining Co.*, 202 U. S. 563; *Lane's Appeal*, 57 Conn. 182, and not 12 L. R. A. 50; etc.) Every reasonable doubt is resolved against a retroactive operation of a statute. If all the language of a statute can be satisfied by giving it prospective action only that construction will be given it.

The rule that statutes are to be given a prospective rather than a retrospective operation, like other rules of interpretation is resorted to to give effect to the presumed and reasonably probable intention of the legislature, when the terms of the statute do not of themselves make the intention certain or clear. \* \* \*."

The various workmen's compensation laws are somewhat analogous to the Hospital Bill in question. In 28 R. C. L. at pages 715 and 716, it is stated:

"In harmony with the established principle that legislative enactments, in the absence of a clearly expressed intent to the contrary, will be deemed to be prospective, and not retrospective, workmen's compensation acts have been held not to apply to injuries which occurred before the law went into effect. (Citing *State vs. General Acc. F. etc. Assur. Corp.*, 134 Minn. 21 Ann. Cas. 1918 B 615, and note.) On the same principle it is held that

an amendment of the statute with respect to a matter of substantive right does not apply to existing injuries. (Citing Ann. Cas. 1918 B 617)."

Therefore, it is my opinion with reference to your fourth and fifth inquiries that the accounts of indigent persons who were injured and admitted to hospitals before October 9, 1933, should not be charged to the state fund for care and treatment on and after that date inasmuch as the motor vehicle injury evidently occurred prior to October 9, the effective date of the Act. Nor should the accounts of persons injured before October 9 but admitted to hospitals after October 9 be charged to the state fund.

With respect to your sixth question, the relevant provision of the Act is as follows:

"\* \* \* Each such claim shall be made in the form prescribed by the registrar of motor vehicles and shall show the following:

\* \* \* \* \* \* \* \*

5. The affidavit of the indigent patient, if living, and the statement of a township trustee, municipal officer or director or like representative of a social agency engaged in the relief of the poor, having knowledge of the facts, showing that the indigent patient is unable to pay such hospital charges.

\* \* \* \* \* \* \* \*

The language with reference to a "social agency" is inclusive enough to embrace both governmental and private social agencies. It is my opinion that the (a) signature of a representative distributing federal, state and local relief funds, the (b) signature of a county officer who investigates persons receiving federal, state and local relief funds, (c) the signature of a welfare worker of a corporation who has handled all the relief work for their former employes, (d) the signature of a central agency which does the investigating for all relief agencies, including the charity patients accepted by hospitals, and (e) the signature of a social worker of a hospital which has a well developed social service department whose report is accepted by agencies dispensing federal, state and local relief, would come within the contemplation of the above quoted section.

Your seventh inquiry asks "When is a person indigent?" I presume you mean "Who is an indigent patient" within the contemplation of this Act, inasmuch as there is no language in the Act referring to indigent persons.

Section 1 provides in part:

"'Indigent patient' means a person who has suffered a motor vehicle injury, is received and cared for in a hospital, *is unable to pay* for the cost of such care and *whose account therefor remains unpaid at the expiration of ninety days after the termination of such care*; it excludes an employee suffering from a motor vehicle injury with respect to which he is entitled to the benefits of the workmen's compensation act of this or any other state of country. A person injured by the operation of a motor vehicle *shall be deemed unable to pay* such charges if it shall appear that, *should an action be brought and judgment secured* for the amount thereof against him, or against any other person legally responsible for his care, *execution thereon would be unavailing.*" (Italics the writer's.)

The second sentence in this definition defines "unable to pay" as employed

in the first sentence, so that a reading of the second part of the sentence into the first part gives the complete definition of an "indigent patient" and answers the question you present. It would read in substance as follows:

"'Indigent patient' means a person who has suffered a motor vehicle injury, is received and cared for in a hospital, is unable to pay, that is in the sense that if it appears that should an action be brought and judgment secured for the amount of the hospital bill against such alleged indigent or a party legally responsible for his care, execution thereon would be unavailing, *and* whose account remains unpaid for a period of ninety days after the termination of such care. The definition excludes, however, an employee suffering from a motor vehicle injury with respect to which he is entitled to the benefits of the workmen's compensation act of this or any other state or country."

Specifically answering your inquiries, it is my opinion that:

1. Hospitals entitled to the benefits of House Bill No. 80 of the 90th General Assembly are entitled to reimbursement for the care and treatment of non-resident indigent patients suffering motor vehicle injuries within this state, which injuries occurred on or after the effective date of the act.

2. Such hospitals are not entitled to reimbursement for the care and treatment of residents who suffered motor vehicle injuries outside of the confines of the state even though such patients are brought back to the hospitals of this state for treatment.

3. Such hospitals are not entitled to reimbursement for caring for non-resident persons injured in other states and brought to hospitals in Ohio for treatment.

4 and 5. Such hospitals should not charge to the state fund the accounts of indigent persons who suffered motor vehicle injuries prior to the effective date of House Bill No. 80.

6. The (a) signature of a representative distributing federal, state and local relief funds, (b) the signature of a county officer who investigates persons receiving federal, state and local relief funds, (c) the signature of a welfare worker of a corporation who has handled all the relief work for their former employes, (d) the signature of a central agency which does the investigating for all relief agencies, including the charity patients accepted by hospitals, and (e) the signature of a social worker of a hospital which has a well developed social service department whose report is accepted by agencies dispensing federal, state and local relief, would come within the contemplation of paragraph 5 of Section 4 of House Bill No. 80.

7. "Indigent patient" means a person who has suffered a motor vehicle injury, is received and cared for in a hospital, is unable to pay, that is in the sense that if it appears that should an action be brought and judgment secured for the amount of the hospital bill against such alleged indigent or a party legally responsible for his care, execution thereon would be unavailing, and whose account remains unpaid for a period of ninety days after the termination of such care. The definition excludes, however, an employee suffering from a motor vehicle injury with respect to which he is entitled to the benefits of the workmen's compensation act of this or any other state or country.

Respectfully,

JOHN W. BRICKER,  
*Attorney General.*