

OPINION
51-49

July 24, 1951 (OPINION)

DISPLACED PERSONS

RE: Responsibility for Institutional Care

In your letter of July 16, 1951, addressed to this office, you state that certain displaced persons who have been sponsored by religious societies are at the present time in the tuberculosis sanatorium at San Haven, and that their care is being paid for by their sponsors.

You state that the question arises as to how long the Lutheran Welfare Society would be responsible for their care at this institution and whether they should become inmates of some other institution.

I refer you to Title 50, Appendix, 1950 Supplementary Pamphlet, United States Code Annotated, wherein the Act of June 25, 1948, known as the Displaced Persons Act, is cited.

Subsection (b) provides that "displaced person" means any displaced person or refugee as defined in Annex I of the Constitution of the International Refugee Organization.

Subsection (c) provides as follows:

'Eligible displaced person' means a displaced person as defined in subsection (b) above, (1) who on or after September 1, 1939, and on or before December 22, 1945, entered Germany, Austria, or Italy and who on January 1, 1948, was in Italy or the American sector, the British sector, or the French sector of either Berlin or Vienna or the American zone, the British zone, or the French zone of either Germany or Austria; or a person who, having resided in Germany or Austria, was a victim of persecution by the Nazi government and was detained in, or was obliged to flee from such persecution and was subsequently returned to, one of these countries as a result of enemy action, or of war circumstances, and on January 1, 1948, had not been firmly resettled therein, and (2) who is qualified under the immigration laws of the United States for admission into the United States for permanent residence, and (3) for whom assurances in accordance with the regulations of the Commission have been given that such person, if admitted into the United States, will be suitably employed without displacing some other person from employment and that such person, and the members of such person's family who shall accompany such person and who propose to live with such person, shall not become public charges and will have safe and sanitary housing without displacing some other person from such housing. The spouse and unmarried dependent child or children under twenty-one years of age of such an eligible displaced person shall, if otherwise qualified for admission into the United States for permanent residence, also be deemed eligible displaced persons."

You will note that displaced persons are admitted to this country only after assurance, in accordance with the regulations of the Commission, have been given that such person shall not become a public charge.

Chapter 25-05 of the 1943 Revised Code provides for admittance to the tuberculosis sanatorium, and also defines public charges. A person who is financially unable to pay the costs of examination and admittance to the hospital must appear before the county judge for determination whether he has a legally responsible guardian or other person, and whether the applicant is in fact a pauper. After that determination has been made the applicant is admitted to the sanatorium and the county of the residence of the applicant, together with the state, provides for payment of the costs. The patient under these circumstances is a public charge.

Section 25-0510, 1949 Supplement, provides that if the patient is a transient the state at large shall carry the expense of his internment.

We have in this country two classes of residents; citizens and aliens.

A displaced person entering this country must reside here for a period of five years before becoming a citizen. During this transitory period he must be held to reside in some locality, and it would necessarily follow that the patient remains domiciled in the county in which his sponsors have placed him during the period of his treatment at the sanatorium, as well as under other circumstances under which he may be absent from his home.

The law of domicile is well settled and the rules do not necessarily need to be set forth herein.

It is, therefore, our opinion that displaced persons who have entered this state under the sponsorship of religious organizations or individuals are to be treated as aliens until they become citizens and that the sponsors are financially responsible up to and including that time. When the displaced person is placed in a home and given employment the county wherein he resides is his place of residence and cannot be changed by virtue of commitment to a hospital or other institution.

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