8 November 1946

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ARIZONA ATTORNEY GENERAL

William Y. Murdoch, Superintendent
Motor Vehicle Division
Arizona Corporation Commission
Phoenix, A r i z o n a

Dear Mr. Murdoch:

In your letter of 22 October 1946, you request our opinion as to whether ambulances are common carriers and thereby subject to regulation by the corporation commission.

The statutory definition of a common carrier of passengers in Section 66-501, A.C.A. 1939, is as follows:

> " . . . . .Any person engaged in the transportation on any public highway by motor vehicle of passengers for compensation, as a common carrier; . . . . . .".

A more precise definition of a common carrier of goods, which is obviously applicable to a common carrier of passengers, is found in Claypool v. Lightning Delivery Co., 35 Arizona, at page 265, which is quoted from the case of Santa Fe, Prescott & Phoenix v. Grant Bros. Construction Co., 13 Ariz. 136, as follows:

> "'(1) He must be engaged in the business of carrying goods for others as a public employment, and must hold himself out as ready to engage in the transportation of goods for persons generally as a business, and not as a casual occupation. (2) He must undertake to carry goods of the kind to which his business is confined. (3) He must undertake to carry by the methods by which his business is conducted, and over his established roads. (4) The transportation must be for hire. (5) An action must lie against him if he refuses, without sufficient reason, to carry such goods for those who are willing to comply with his terms.'".

In our opinion the operation of an ambulance falls squarely within the above definition. Ambulance companies generally hold themselves out to the public as ready to carry passengers of a particular type; they carry by special vehicles, to-wit, ambulances, over established roads. As indicated in the Claypool case, supra,

the fact that the ambulance does not operate between fixed terminal nor upon a regular schedule in no way detracts from its character as a common carrier if other conditions are present. Nor does the fact that the ambulance company makes specific and individual contracts for each transaction. Claypool case, supra. It is, of course, a question of fact in each case whether an ambulance operation fits the above category, but generally speaking, it is the situation that most ambulances are of such a character.

In the only case found on this subject, Leete v. Griswold Post No. 72, American Legion, 153 A. 919 (Conn.), it was held that an ambulance maintained by the legion post was a "public carrier", even though the service was gratuitous, with the mere expectation of a contribution from those served.

In view of the Supreme Court definition of a common carrier in the Claypool case, supra, and the holding in the Leete case, supra, it is, therefore, our opinion that ambulances are common carriers.

Very truly yours,

JOHN L. SULLIVAN
Attorney General

WILLIAM P. MAHONEY, Jr.,
Assistant Attorney General

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