

T. S. Brindle, Resident Division Deputy Director, Division No. 3. Southern Surety Company of New York.

Finding said bonds to have been properly executed, I have accordingly approved the same as to form, and return them herewith.

Respectfully,

GILBERT BETTMAN,
Attorney General.

2911.

APPROVAL, BONDS OF LORDSTOWN TOWNSHIP RURAL SCHOOL DISTRICT, TRUMBULL COUNTY, OHIO—\$25,000.00.

COLUMBUS, OHIO, February 4, 1931.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.

2912.

APPROVAL, BONDS OF LORDSTOWN TOWNSHIP RURAL SCHOOL DISTRICT, TRUMBULL COUNTY, OHIO—\$70,000.00.

COLUMBUS, OHIO, February 4, 1931.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.

2913.

BLIND MOTHER—RECEIVING RELIEF FOR NEEDY BLIND—ADDITIONAL PUBLIC RELIEF FOR PERSONAL BENEFIT UNAUTHORIZED—ALLOWANCE OF MOTHERS' PENSION OR SOLDIERS' RELIEF FOR MINOR CHILDREN MAY BE MADE WHEN.

COLUMBUS, OHIO, February 5, 1931.

Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

DEAR SIR:—In your recent communication you have requested my opinion upon the following:

“Section 2967 of the General Code provides for the relief of the needy blind and fixes the maximum amount which may be paid. The

section makes the further provision that such relief shall be in place of all other relief of a public nature.

Question 1. When an allowance is made under this section, whether the maximum is allowed or not, does this preclude the person receiving the allowance from receiving any allowance under sections 1683-2, et seq., of the General Code, relating to Mothers' pensions, or under sections 2930, et seq., General Code, relating to Soldiers' relief?

Question 2. May a person receiving less than the maximum under the blind relief law legally receive an amount under the mothers' pension law or the soldiers' relief law without limitation, or would the maximum amount fixed by section 2967, General Code, prevail?"

Section 2967 of the General Code, to which you refer, provides for the filing of a claim with the board of county commissioners for relief on the part of a blind person in the manner specifically set forth therein. The section then further provides:

"If the board of county commissioners be satisfied that the applicant is entitled to relief hereunder, said board shall issue an order therefor in such sum as said board finds needed, not to exceed four hundred dollars per annum, to be paid quarterly from the funds herein provided on the warrant of the county auditor, and such relief shall be in place of all other relief of a public nature; provided, however, that where a husband and wife are both blind, and both have made application for blind relief as herein provided, the total relief given by said county commissioners to such husband and wife shall not exceed six hundred dollars per annum, and such relief shall be in place of all other relief of a public nature, to which such husband and wife or either of them, might be entitled as a blind person."

The section above quoted was first enacted in an act found in 99 O. L., 57, and has frequently been amended. However, the history thereof discloses that it has from the date of its original enactment contained a provision inhibiting other public relief to one receiving said under said section. The commissioners are required to issue an order for "such sum as said board finds needed, not to exceed four hundred dollars per annum."

In the case of *State ex rel vs. Edmonson*, 89 O. S. 351, the court sustained the constitutionality of the blind relief laws on the theory that the object thereof is "to furnish relief to the blind who are poor and needy, and to avoid the public burden."

In a number of instances it has been indicated that the blind laws should be construed in connection with the poor laws for the purpose of determining the proper residential requirements for one entitled to relief. See Opinions of the Attorney General for 1919, page 53, and opinions cited therein. It would therefore seem clear that if a blind person has been granted and has received the allowance as made by the county commissioners under section 2967, *supra*, such person is not entitled to other public relief by reason of the plain terms of the statute. It is not believed that the situation would be in anywise altered by the fact that the commissioners had not allowed the maximum amount.

An opinion of the Attorney General for the year 1914, page 1303, has been noted, the syllabus of which reads:

"The words 'and such relief shall be in place of all other relief of a public nature,' as found in section 2967, G. C., do not preclude a pensioner of the federal government from drawing blind relief, nor does the drawing of a federal pension affect the right of a blind person to relief under the Ohio blind relief laws."

In the body of the opinion, the then Attorney General assigns two reasons in support of his holding, which read:

"1st. The federal pension is not 'relief' in the sense of the language used in section 2967.

"2nd. The language of 2967 has no application to relief furnished by another government than the state of Ohio, or some of its subdivisions."

However, the conclusions hereinbefore made have reference to relief granted for the sole benefit of the blind person and do not necessarily preclude the granting of relief for the benefit of children of a blind mother.

Section 1683-2 appears to provide "for the support of women" coming within the conditions therein mentioned, who are the mothers of children not entitled to receive an age and schooling certificate. An analysis thereof will indicate that the relief granted is for the benefit of the child rather than the mother, the amount to be awarded depending upon the number of children. In support of the view that the award is for the benefit of the children, attention is directed to section 1683-3, General Code, which sets forth a number of conditions precedent to the allowance of such relief. In the first paragraph the legislature made use of the following language:

"First, the child or children for whose benefit the allowance is made must be living with the mother of such child or children; * * *"

Section 1683-4, General Code, reads:

"Whenever any child shall reach the age for legal employment, any allowance made to the mother of such child for the benefit of such child shall cease. The juvenile court may, in its discretion at any time before such child reaches such age, discontinue or modify the allowance to any mother for any child."

The mothers' pension act is later in order of enactment than the blind relief law, and while the allowance is made to the mother, it is for the benefit of the child and she becomes the trustee thereof for such purpose, and unless she has children not entitled to an age and schooling certificate, she may not receive it no matter how needy she herself may be. Moreover, as soon as the children reach the age "for legal employment," the allowance shall cease.

It was pointed out in the Edmondson case, supra, that:

"Outdoor relief of the poor, as distinct from relief in institutions, was fixed as part of the policy and practice of Ohio one hundred years ago."

The conclusion is irresistible that relief may not be granted to a blind person receiving relief under section 2967, and its related sections, under the so-called poor laws by reason of the express provisions of said section 2967. On the other hand, a liberal interpretation of the language relating to mothers' pen-

sions compels the conclusion that an allowance may be made under section 1583-2, et seq., for the relief of the children of a blind mother, notwithstanding the mother is receiving blind relief, if the status of the mother and children otherwise comes within the provisions of the sections.

Coming now to relief which may be granted by the soldiers' relief commission under the provisions of sections 2930 et seq., General Code, it may be said that those sections provide relief for persons enumerated therein who in the opinion of the commission, "require aid," etc. Without going into details it is believed sufficient for the purposes of this opinion to state that indigent persons who are soldiers, sailors or marines, or parents, wives, widows, and minor children of such soldiers, sailors, or marines, may receive relief. It will appear, therefore, that no relief under said sections may be granted to a woman who is receiving relief as a blind person. However, there appears to be nothing to prevent an allowance for the support of a minor child living with its mother if in need of such support.

In conclusion, it is my opinion that the relief furnished to a blind person under section 2967, and its related sections, is for the sole benefit of such blind person, and while no further public relief may be granted for the benefit of such person when she has received the allowance as made, there is nothing to prevent an allowance being made for her minor children under facts and circumstances bringing them within the provisions of sections 1683-3 et seq., relating to soldiers' relief.

In passing, it may be observed that it is believed that the established policy in this state of providing outside relief for the unfortunate to the end that families may be kept together rather than be separated and the members thereof placed in institutions, together with the language used in the statutes under consideration, precludes any logical conclusion other than that as above stated.

It is further believed that a more specific answer to your inquiries is unnecessary.

Respectfully,

GILBERT BETTMAN,

Attorney General.

2914.

CLERK OF BOARD OF EDUCATION—TERM FOR WHICH ELECTED
WHEN NO TIME SPECIFIED—MAY BE DISMISSED FOR CAUSE.

SYLLABUS:

When a clerk of a board of education is elected by authority of section 4747, General Code, and at the time of such election no term of service is fixed, and no reservation made authorizing the board to discontinue the services of such clerk at the will of the board, the said person so elected continues to serve as clerk for two years, unless sooner dismissed for cause by authority of Section 7701, General Code.

COLUMBUS, OHIO, February 5, 1931.

HON. JOHN H. HOUSTON, *Prosecuting Attorney, Georgetown, Ohio.*

DEAR SIR:—This will acknowledge receipt of your request for my opinion, which reads as follows: