

3068.

DISAPPROVAL, ARTICLES OF INCORPORATION OF THE DOUGLASS  
MUTUAL AID SOCIETY.

COLUMBUS, OHIO, March 19, 1931.

HON. CLARENCE J. BROWN, *Secretary of State, Columbus, Ohio.*

DEAR SIR:—I beg to acknowledge receipt of your recent communication, together with the proposed articles of incorporation of the Douglass Mutual Aid Society, for my re-examination and opinion as to the validity of the same. The purpose clause of said proposed articles reads as follows:

“To aid and assist its members, not to exceed five hundred, in sickness and distress and assist in the burriel (burial) of its dead in any sum for all not to exceed one hundred and fifty dollars per year.”

Although changes have been made to overcome the objections raised in my opinion No. 3012, rendered to you on March 2, 1931, concerning the former proposed articles of incorporation of said society, I am forced to the conclusion that the pertinent statutes have not yet been sufficiently complied with in the preparation of the purpose clause quoted above. The defects apparent are fully covered in my former opinion, so that my discussion herein of the same will be very brief.

I note that the purpose clause does not unambiguously limit the membership to five hundred but only goes to the extent of limiting the aid and assistance to five hundred of its members. In that respect the purpose clause does not conform to the provisions of Section 9491, General Code, in order to exempt such society from the provisions of the chapter governing fraternal benefit societies.

As pointed out in my former opinion, there is no specific statutory authority in the General Corporation Act authorizing the organization of associations to pay burial expenses as such. Section 665, General Code, among other things, provides in substance that no association may engage directly or indirectly in the business of insurance unless such business is specifically authorized by law. See Vol. I, Opinions of the Attorney General for 1912, pp. 57 and 717. Since it is apparently sought to exempt this society from the provisions of the chapter concerning fraternal benefit societies, it cannot rely on the authority of Section 9466, General Code, to transact such business.

As stated in opinion No. 3012, the death benefits which may be granted by such society include by necessary implication assistance in the burial of the members of said society. The limitations on the benefits to be granted by said association is made \$150.00. To bring the society within the exemption, death benefits must be limited to \$100.00 to the beneficiaries of any one member. The sickness and distress benefits provided for in said purpose clause can, of course, be granted to any one member in one year to the extent of \$150.00. See Section 9491, General Code; Opinions of the Attorney General for 1930, No. 3012; Opinions of the Attorney General for 1913, Vol. I, p. 100. It will be noted that contrary to the probable intention of the incorporators, the purpose clause reads in such a way as to limit the total benefits to be granted by the society to all its members to \$150.00 per year.

I therefore advise, based on the foregoing discussion that you do not file

the proposed articles of incorporation of Douglass Mutual Aid Society until the same have been changed to conform with law.

Respectfully,  
 GILBERT BETTMAN,  
*Attorney General.*

3069.

CONGRESSIONAL REPRESENTATION—NUMBER OF REPRESENTATIVES TO BE ELECTED FROM OHIO—HOW APPORTIONED—FUTURE LEGISLATION MAY ALTER.

*SYLLABUS:*

1. *Inasmuch as Congress has heretofore seen fit to provide by specific acts that Representatives in Congress from the several states be elected by districts under apportionments made following the sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, and thirteenth censuses, each of which acts of Congress was complete in itself and entirely superseded the act applying to the apportionment under the last preceding census thereto and did not make similar provision for the election of Representatives under the fifteenth census, it follows that the several states are free to provide for the election of members in the national House of Representatives, in such manner as the legislature of the state may determine, until such time as federal regulation of the matter may become effective.*

2. *The question of how representatives in Congress are to be elected, whether by districts, or at large, is purely legislative, and in the absence of Federal regulation of the matter, provision may be made therefor by the Legislature of Ohio, in any manner it sees fit.*

3. *Unless further legislation is had, either Federal or state, prior to the general election to be held in November, 1932, the State of Ohio will be represented in the Seventy-third Congress by twenty-two Representatives elected by districts, and two Representatives elected at large.*

COLUMBUS, OHIO, March 20, 1931.

HON. JOSEPH N. ACKERMAN, *Chairman, Committee on Elections, Ohio Senate, Columbus, Ohio.*

DEAR SIR:—This is to acknowledge receipt of a request for my opinion with reference to the manner of electing members of Congress at the election to be held in November, 1932. This request emanated from the Chairman of a Subcommittee and, specifically, is as follows:

“Whether the amendment adopted by Congress on June 18, 1929, requires a re-districting of Congressional Districts on the basis of twenty-four congressmen, and whether Section 4 of the act of August 8, 1911, applied only to elections at large under that act.”

The Constitution of the United States in Section 2 of Article I thereof, provides in part, as follows:

“The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, \* \*