

the governor, not less in any case than ten thousand dollars. Such bond * * * shall be filed in the office of the secretary of state."

"Sec. 1182-3. Each employe or appointee under the provisions of this act, in cases other than where the amount of the bond is herein fixed, may be required to give bond in such sum as the director may determine. All bonds hereinbefore provided for shall be conditioned upon the faithful discharge of the duties of their respective positions, and such bonds, *except the bond of the director, which shall be approved as to sureties by the auditor of state*, shall be approved * * * ." (Italics mine.)

After an examination of the bond, I find same to be in proper legal form in accordance with the above statutory provisions, and I therefore approve it as to legality of form and return it herewith.

Respectfully,
JOHN W. BRICKER,
Attorney General.

3922.

POOR RELIEF—RELIEF ORDER ISSUED BY COUNTY RELIEF DIRECTOR
MAY BE FILLED BY COUNTY COMMISSIONER OPERATING GROCERY
STORE WHEN.

SYLLABUS:

Where a relief order is issued in a county by the county relief director through the procedure established by the State Relief Commission, and no particular grocer or merchant is designated in the order where such order is to be filled, a county commissioner who accepts such order at his store violates no law of Ohio in so acting.

COLUMBUS, OHIO, February 7, 1935.

HON. GERALD W. LANNING, *Prosecuting Attorney, Logan, Ohio.*

DEAR SIR:—Acknowledgment is made of your recent inquiry, which reads as follows:

"Would you please give me an opinion on the following statement of facts, at your earliest convenience?

A newly elected county commissioner, prior to his election, was for many years a merchant and grocer of a village in this county (Hocking). Prior to his election, some relief orders were issued at his store for merchandise for indigent parties.

Will the fact of said newly elected commissioner, in his official position, preclude him from now furnishing merchandise and groceries on relief orders to old customers who have dealt with him for many years prior to his election? (The orders from the relief office are made out to any grocer in the village of Carbon Hill.) Thus, the relief party has the option of cashing said order where he chooses in said village and where he obtains his merchandise is purely a voluntary matter with him.

If said commissioner accepts said orders, the county auditor must in due time issue his check to said commissioner for the order. Can said commissioner

accept said order under these set of facts and by so doing, is he liable under the state statutes, criminally or otherwise?"

I am informed by the State Relief Commission that in Hocking County the county relief director, as assistant clerk of the board of county commissioners, issues the relief orders for merchandise, but does not designate therein any particular grocer or merchant where the order may be filled. The person on relief is given the order by the county relief director and then takes such order to some merchant. The merchant then issues an invoice, in triplicate, of goods furnished, has the person on relief sign it, delivers the merchandise to him and then attaches the order to the original copy of the invoice and sends it to the board of county commissioners, who after approving it, certify it to the county auditor for payment.

An examination of the Ohio General Code reveals but two sections that might possibly prevent the county commissioner in question from accepting such grocery orders. I refer to sections 2420 and 12910, General Code, which read as follows:

"Sec. 2420. No commissioner shall be concerned, directly or indirectly, in any contract for work to be done, or material to be furnished for the county. For a violation of this section, a commissioner shall forfeit not less than two hundred dollars nor more than two thousand dollars, to be recovered by a civil action in the name of the state for the use of the county. Such commissioner shall also forfeit any compensation he was to receive on such contract."

"Sec. 12910. Whoever, holding an office of trust or profit by election or appointment, or as agent, servant or employe of such officer or of a board of such officers, is interested in a contract for the purchase of property, supplies or fire insurance for the use of the county, township, city, village, board of education or a public institution with which he is connected, shall be imprisoned in the penitentiary not less than one year nor more than ten years."

In my opinion No. 881, rendered May 26, 1933, and reported in Opinions of the Attorney General for 1933, Vol. I, page 780, it was held in the first paragraph of the syllabus:

"1. A member of a soldiers' relief commission having an interest in a store that sells supplies to veterans receiving aid under section 2934, General Code, does not violate section 12910 or 12911, General Code, where there is no agreement that the veterans should make the purchases from this particular store."

In the opinion, at page 782, is was stated:

"It is clear that a member of a soldiers' relief commission holds a position of trust by appointment within the meaning of sections 12910 and 12911, General Code. However, in the first situation presented in your inquiry, there does not appear to be any contract, express or implied, entered into by this member of the soldiers' relief commission. In a subsequent communication you state that the *veterans may purchase* meats, groceries, etc., *from any store that they may select*, that there is no agreement made *nor does the ward committee or relief commission request that purchases be made from any particular grocery*. In view of this discussion, I am of the opinion that the transactions involved in your first question are legal and do not constitute a violation of sections 12910 or 12911, General Code." (Italics mine.)

In the present situation, as disclosed by your communication, there does not appear to be any of the orders made out to any particular grocer, just as was the case in the opinion above mentioned. Hence, it would seem that the county commissioner in question, as one of the members of the board of county commissioners, could not be said to enter into any "contract," express or implied, within the meaning of sections 2420 and 12910, General Code, *supra*.

I am aware of an opinion rendered by my immediate predecessor, reported in Opinions of the Attorney General for 1932, Vol. II, page 1224. In the syllabus of such opinion it was stated:

"A member of a board of township trustees furnishing groceries upon order of the board of township trustees and receiving compensation therefor from such board, is subject to the provisions of sections 12910 and 12912, General Code, which prohibit a member of a board of township trustees from being interested in a contract or profits of a contract for the purchase of property or supplies for such township."

However, the facts in such opinion may be clearly distinguished from those present in the 1933 opinion and those present in the matter at hand, in that in the 1932 opinion, a definite store was set forth in the order where the merchandise was to be obtained, while in the 1933 opinion and in the present instance no definite store where such merchandise is to be furnished is stated in the order.

In view of the foregoing discussion, and in specific answer to your question, I am of the opinion that where relief orders are issued in a county by the county relief director through the procedure established by the State Relief Commission, and no particular grocer or merchant is designated in the order where such order is to be filled, a county commissioner who accepts any such order at his store violates no law of Ohio in so acting.

Respectfully,
JOHN W. BRICKER,
Attorney General.

3923.

APPROVAL, BONDS OF GLENDALE VILLAGE SCHOOL DISTRICT, HAMILTON COUNTY, OHIO, \$10,000.00.

COLUMBUS, OHIO, February 7, 1935.

Industrial Commission of Ohio, Columbus, Ohio.

3924.

APPROVAL, BONDS OF BYESVILLE VILLAGE SCHOOL DISTRICT, GUERNSEY COUNTY, OHIO, \$3,109.93.

COLUMBUS, OHIO, February 7, 1935.

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