

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.*

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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:

"I am requested by the Board of Education of Ripley, Ohio, to ask you the following question:

At a meeting of January 6, 1930, of said Board of Education, Miss B. M. was elected clerk of said Board of Education, and on the minutes of said meeting no time is specified for which she was elected.

Under Section 4747, General Code, it provides that the President and Vice-president shall serve for a term of one year and the clerk for a term not to exceed two years, and inasmuch as no time is mentioned for which Miss M. was elected, it is her contention that she was elected for a period of two years.

However, some of the Board question this, and proceeded at the organization meeting the first of this year, 1931, to elect another Clerk, specifying on their minutes that it was subject to the approval of the Attorney General.

For this reason the Board is requesting an opinion as to whether Miss M., inasmuch as no time is specified, will serve for a period of two years or is it at the pleasure of the Board?

It might be noted that no complaint is made of her competency."

Section 4747, General Code, reads as follows:

"The board of education of each city, exempted village, village and rural school district shall organize on the first Monday of January after the election of members of such board. One member of the board shall be elected president, one as vice-president and a person who may or may not be a member of the board shall be elected clerk. The president and vice-president shall serve for a term of one year and the clerk for a term not to exceed two years. The board shall fix the time of holding its regular meeting."

It will be observed from the foregoing statute that clerks of boards of education are to serve for a term not to exceed two years. This statute authorizes a board of education to elect a clerk for any specified time of two years or less. When a clerk is elected and no time fixed for the length of her service we have no means of knowing what the intention of the board was with reference to this time, whether it was intended that she serve for a single meeting or for a full term of two years. The board is precluded by its record and we are not authorized to go back of this record to determine what its real intention was. In the present instance, at least, it was apparently the intention of the board that the clerk serve for a longer time than for the single meeting at which she was elected as there appears to have been no attempt to discontinue her services until after the lapse of a year.

It is probable that under this statute the board, having authority to elect a clerk for any length of time less than two years, might at the time of the appointment or election, provide that the clerk should serve at the will of the board. It having made the appointment without such a provision, we must conclude that the clerk so appointed serves the full time permitted by the statute unless there exists some authority by which she may be dismissed or her services discontinued.

It must be borne in mind that boards of education are boards of limited authority, having such powers only as are clearly and distinctly granted to them, together with such incidental powers which may be said to be included within

those clearly and distinctly granted as being necessary to carry out the powers so expressly given.

Commenting on this attribute of a board of education the Supreme Court of Ohio in the case of *State ex rel Clark v. Cook*, 103 O. S., 465, at page 470 said with reference to the powers of a board of education to increase the salary of a county superintendent of schools after having once fixed that salary for a definite time:

“The express power to fix a salary does not grant by implication the power to unfix such salary. The exercise of the power for the full three-year term, agreeable to the statute, exhausts the power conferred by the statute. The power to change after once having fixed the term and salary, to employ the language of the Locher case, supra, must be ‘clear and distinctly granted.’ The power not being so granted to the board of education cannot be exercised by the board of education, and its attempted exercise thereof is ultra vires. The action of the board in attempting to change the salary of the county superintendent, after once fixed, is illegal and void under the statute.”

Applying the principles of the case cited above, to the instant case, it may authoritatively be said that the power to elect a clerk does not grant by implication the power to dismiss him. The exercise of the power to elect the clerk exhausts the power of the board in that respect, and the power to dismiss the clerk so elected, if such power exists at all, must necessarily be derived from the reservation of such power by the board itself in the terms of the appointment or in some other provision of law granting the power.

The board in this case not having reserved the power to discontinue the service of the clerk at the time of her election, she will serve, in my opinion, the full time permitted by law, towit, two years, unless by some provision of law, other than that contained in the statute authorizing the election, the board is granted the power to remove or dismiss her or discontinue her services.

The only statute authorizing a board of education to dismiss appointees is Section 7701, General Code, which provides in substance, that a board of education may dismiss any appointee for inefficiency, neglect of duty, immorality or improper conduct.

I am of the opinion that 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.

Respectfully,

GILBERT BETTMAN,  
*Attorney General.*