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RELIEF—UNDER SOLDIERS' RELIEF ACT—SECTION 2930 ET SEQ., G. C.—RESIDENCE REQUIREMENT—APPLICANT SHALL HAVE BEEN A BONA FIDE RESIDENT OF STATE FOR ONE YEAR AND OF COUNTY IN WHICH CLAIM MADE SIX MONTHS NEXT PRIOR TO FIRST MONDAY IN MAY OF YEAR IN WHICH ELIGIBILITY DETERMINED—SECTION 2934 ET SEQ., G. C.—OPINION 457, PAGE 176, OAG 1949 OVERRULED IN PART.

SYLLABUS:

In order for an applicant to qualify for relief under the soldiers' relief act, Section 2930, et seq., General Code, the only residence requirement is that he shall have been a bona fide resident of the state for one year and of the county in which application is made for a period of six months next prior to the first Monday in May of the year in which his eligibility is determined, as provided in Section 2934, et seq., General Code. In so far as it holds that a legal settlement as defined in former Section 3477 or present Section 3391-16, General Code, is a requisite for relief under the soldiers' relief law, Section 2930, et seq., General Code, Opinion No. 457, Opinions of the Attorney General for 1949, page 176, is overruled.

Columbus, Ohio, July 24, 1951

Hon. Jackson Bosch, Prosecuting Attorney
Butler County, Hamilton, Ohio

Dear Sir:

I have before me your request for my opinion, reading as follows:

“Section 2934 G. C. in specifying residential requirements necessary for obtaining soldiers’ relief provides that an eligibility list be made up the first Monday in May of each year of those veterans and their dependents ‘who have been bona fide residents of the state one year and of the county six months next prior to such first Monday in May.’

“1947 O.A.G. 2190 gives a lucid explanation of the residential requirements and seems to follow the statute very closely. This opinion emphasized that in order for an applicant otherwise eligible to receive soldiers’ relief in any given county in Ohio in the calendar year 1951 he must have been a resident in that county six months prior to the first Monday in May 1950 and a resident of the state one year prior to the first Monday in May 1950.

“1949 O.A.G., 457 states: ‘Since Section 2930 et seq. G. C. does not provide for a clear definition of the status of soldiers entitled to relief, and since they are poor within the same meaning contemplated by the poor relief law, to wit, Section 3476 et seq., it is only consistent that 3477 defining legal settlement should be accepted as being within the contemplation of the legislature as the yardstick for the determination as to who shall be entitled to relief under the soldiers’ relief act. When a person within the contemplation of Section 2930 et seq. of the General Code of Ohio resides in any county of this state and supports himself or herself for twelve consecutive months without relief under provisions of law for the relief of the poor . . . then in that instance he or she shall be entitled to relief under the provisions of such section.

“Apparently these two opinions are in conflict. The 1949 opinion ignores section 2934 G. C. and goes outside the soldiers’ relief status (Sections 2930-2941, inclusive) for a definition of ‘residence.’ Section 3476 et seq., G. C. dealt with ‘poor relief’ and not soldiers’ relief and was repealed 20 October 1949. Which opinion prevails?”

The statutes providing for a soldiers’ relief commission and for relief to indigent soldiers and their dependents are found in Sections

2930 to 2941, inclusive, of the General Code. Section 2934, as amended by an Act passed April 2, 1951, reads as follows:

“Each township and ward soldiers’ relief committee shall receive all applications for relief under these provisions, from applicants residing in such township or ward, examine carefully into the case of each applicant and on the first Monday in May in each year make a list of all needy soldiers, sailors and marines, and of their needy parents, wives, widows and minor children, including widows of soldiers, sailors and marines who have remarried, but again have become needy widows, who reside in such township or ward, and including the soldiers, sailors and marines of the Spanish-American War, World War I, World War II or the Korean War and their wives, widows, needy parents, minor children and wards, who have been bona fide residents of the state one year, and of the county six months, next prior to such first Monday in May, and who, in the opinion of such relief committee, require aid, and are entitled to relief under these provisions.”

Section 2935, General Code, reads as follows:

“On or before the last Monday in such month of May, the chairman of each township or ward soldiers’ relief committee, or other member thereof authorized by such committee, shall deliver such list to the soldiers’ relief commission, or its secretary, with a statement of each applicant for relief, of the income, if any, of the applicant, the amount of taxable property, real and personal, stocks, bonds, moneys on hand, loaned or deposited in any bank or elsewhere, shares in building associations, mortgages, notes or other articles of value from which an income or revenue is derived by such applicant. Such statement shall be made upon blanks which shall be furnished by the soldiers’ relief commission, and shall be subscribed by the applicant. In case any false statement is made therein by an applicant for relief, or guardian for such applicant, such applicant or guardian shall be fined not less than twenty dollars, nor more than fifty dollars, and be imprisoned in the county jail not less than thirty days, nor more than sixty days.”

Section 2936, General Code, provides that on the last Monday in May, the Commission shall meet and determine from such list the probable amount necessary for the aid and relief of such indigent persons for the ensuing year.

It will be noted that Section 2934 very clearly prescribes the residence requirements of persons who are to be recipients of this relief. They must have been “bona fide residents of the state for one year, and

of the county six months, next prior to such first Monday in May." It will be noted that nothing is said about a "legal settlement" as a qualification for relief under the law in question. Under the laws in force for a long period, a "legal settlement" has been the basic qualification for poor relief, as determining the particular political subdivision which shall be responsible for affording relief in a particular case. Thus Section 3477, General Code, now repealed, defined legal settlement as follows:

"Each person shall be considered to have obtained a legal settlement in any county in this state in which he or she has continuously resided and supported himself or herself for twelve consecutive months, without relief under the provisions of law for the relief of the poor, or relief from any charitable organization or other benevolent association which investigates and keeps a record of facts relating to persons who receive or apply for relief."

The laws relating to poor relief generally, underwent a radical revision by the 98th General Assembly and Sections 3476 to 3494, of the General Code, which had been the foundation of poor relief administration for a long time, were repealed. The new act, which is found in 123 Ohio Laws, page 607, became effective on October 20, 1949. Section 339I-1, General Code, provides in part, as follows:

"* * * In each local relief area poor relief shall be furnished by the local relief authority to all persons therein eligible for such poor relief except that those who are permanently and totally disabled, *those who lack legal settlement in the county* or those who are receiving aid to the needy blind or aid to dependent children who are in need of supplementation from poor relief funds shall be the responsibility of the county relief authority whether living in a city or outside the corporate limits of a city. * * *"
(Emphasis added.)

"Legal settlement" is defined in Section 339I-16, General Code, as follows:

"Except as otherwise provided by law, legal settlement shall be acquired by residing in one county for a period of one year without receiving poor relief or relief from a private agency which maintains records of relief given. * * * Settlement once acquired in another county or until a person has been continuously absent from Ohio for a period of four years or has acquired a legal residence in another state. * * *"

In my opinion the provisions of law just referred to, which relate

to the general administration of poor relief, have no bearing whatever as qualifying relief of the special character contemplated by the soldiers' relief law.

In Opinion No. 2190, Opinions of the Attorney General for 1947, page 457, to which your letter refers, it was pointed out that the only residence requirement for applicants for soldiers' relief is that found in Section 2934, *supra*, to wit, they must have been bona fide residents of the state for one year and of the county for six months next prior to the first Monday in May.

In the 1949 opinion referred to in your letter, Opinion No. 457, Opinions of the Attorney General for 1949, page 176, it was held:

"When a person within the contemplation of Section 2930 et seq. of the General Code of Ohio resides in any county of this state and supports himself or herself for twelve consecutive months without relief under the provisions of law for the relief of the poor, or relief from any charitable organization or other benevolent association which investigates and keeps a record of facts relating to persons who receive or apply for relief, then in that instance he or she shall be entitled to relief under the provisions of such sections."

In the course of the opinion, the following language was used:

"Since Section 2930 et seq. does not provide for a clear definition of the status of soldiers entitled to relief, and since they are poor within the same meaning contemplated by the poor law, to wit, Section 3476 et seq. it is only fair and consistent that Section 3477, above quoted, defining legal settlement, should be accepted as being within the contemplation of the legislature as the yardstick for the determination as to who shall be entitled to relief under the soldiers' relief act."

It was also said in this opinion:

"I wish to state briefly here that when the term 'residence' is used in Section 2930 et seq. it is used for the purpose of determining who shall be placed on a list and the word 'residence' as used therein has no bearing on who shall be given relief. We must rely entirely on the definition of legal settlement set forth in Section 3477 of the poor law to determine who is entitled to relief."

The then Attorney General, relied largely upon his interpretation of

Opinion No. 424, Opinions of the Attorney General for 1933, Volume 1, page 414, the syllabus of which is as follows :

“Soldiers’ relief granted under section 2930, et seq., of the General Code, is relief of the poor within the contemplation of sections 3477 and 3479, defining legal settlement.”

It is obvious that the effect of that opinion was misapprehended. What the then Attorney General was really undertaking to decide, was whether under the provisions of the poor relief law as it then stood, Section 3476 et seq., a person who had been receiving relief under the soldiers’ relief law could be said to have been in receipt of poor relief within the twelve month period referred to in the poor relief law, and therefore had not established the legal settlement required for poor relief generally. There was no suggestion whatever that in determining the status of an applicant for soldiers’ relief under the soldiers’ relief law, he must have obtained a legal settlement as a qualification. That the meaning of that opinion was not clearly understood, is shown by another opinion found in the same volume, at page 61, where the same Attorney General held :

“1. Application for soldiers’ relief under section 2930, et seq., of the General Code, may be made directly to the county soldiers’ relief commission in cases not submitted to the commission in the lists furnished by the proper township or ward soldiers’ relief committee.

“2. All such persons eligible to relief must be bona fide residents of the county six months next prior to the first Monday in May of the year in which such eligibility is determined.”

While it is of course true that relief given to an indigent under any law, and relief given to certain classes of indigents, such as soldiers and their dependents, is to be regarded as poor relief, yet the statutes relating to this system are wholly independent of the poor relief laws generally embodied in Section 3391 et seq. General Code. It should further be pointed out that the required six months’ residence must, under the procedure set out in the law, be prior to the first Monday in May of the year preceding that in which the relief is actually given. After the lists of persons eligible have been prepared and examined on the last Monday of May, as already pointed out, then the following procedure is to be followed: Section 2936, already referred to, requires that the

amount estimated by the commission as necessary for such relief "for the ensuing year," be certified to the county commissioners, who shall levy a tax for such purpose not exceeding five-tenths of a mill per dollar.

Section 2937, General Code, requires the soldiers' relief commission to meet on the fourth Monday of November, and to re-examine such lists and fix the amount to be paid each month to each such person or family. By Section 2938, General Code, it is provided that on the first day of each month "after the fund is ready for distribution" the amount awarded to each township is to be sent to the township trustees who shall disburse the same.

Accordingly, as was pointed out in the 1947 opinion, at page 459:

"From these statutory provisions it is quite clear that any person who receives relief in a given year must have been a resident of the county he makes application for six months prior to May of the preceding year."

To the same effect see Opinion No. 73, Opinions of the Attorney General for 1933, page 61.

Accordingly, it is my opinion and you are advised that in order for an applicant to qualify for relief under the soldiers' relief act, Section 2930, et seq., General Code, the only residence requirement is that he shall have been a bona fide resident of the state for one year and of the county in which application is made for a period of six months next prior to the first Monday in May of the year in which his eligibility is determined, as provided in Section 2934, et seq., General Code. In so far as it holds that a legal settlement as defined in former Section 3477 or present Section 3391-16, General Code is requisite for relief under the soldiers' relief law, Section 2930, et seq., General Code, Opinion No. 457, Opinions of the Attorney General for 1949, page 176, is overruled.

Respectfully,

C. WILLIAM O'NEILL

Attorney General