

1904.

WIDOW—CIVIL WAR VETERAN—WHERE WOMAN WAS WIFE OF SUCH VETERAN AT TIME OF HIS DEATH—SUBSEQUENT MARRIAGE—WOMAN DOES NOT CEASE TO BE WIDOW OF SUCH VETERAN UPON HER REMARRIAGE—IF SUCH WIDOW BECOMES NEEDY AFTER SUCH VETERAN'S DEATH, SHE IS ELIGIBLE FOR RELIEF UNDER SECTION 2934 G. C.

SYLLABUS:

1. *A woman who was the wife of a Civil War veteran at the time of his death and who subsequently remarries, does not cease to be the widow of such veteran upon her remarriage.*

2. *If at any time after the death of her veteran husband such widow becomes needy, she would, under the provisions of Section 2934, General Code, be eligible for consideration for relief as provided therein.*

Columbus, Ohio, February 21, 1940.

Hon. Robert C. Carpenter, Prosecuting Attorney,
Tiffin, Ohio.

Dear Sir:

This will acknowledge receipt of your request for an opinion which reads as follows:

“The Soldiers Relief Commission of this County has asked that I request your opinion involving the interpretation to be placed upon the language of Ohio General Code, Section 2934, upon the following set of facts:

A lady, a resident of this County, married a Civil War veteran in 1910, and the couple lived together as man and wife until his death in 1926; this lady remarried some two or three years later and subsequently obtained a divorce from her second husband for his aggressions. She has now filed an application for relief with the Commission.

My specific question is as to whether or not she is now eligible for assistance, or has she lost her status as the result of her marriage, even though she is now divorced?”

Section 2934, General Code, to which you refer in your communication, 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, or of the world 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, requires aid, and are entitled to relief under these provisions.”

The above statute was under consideration by the then Attorney General in 1920, concerning the question of whether or not a divorcee of a Civil War veteran was a widow of a veteran within the meaning of the above Act. In said opinion (Opinions of the Attorney General, 1920, Vol. I, page 725), it was held that a divorced woman is not a “widow” in legal contemplation and cannot be recommended for relief as a needy widow because she was not married to the veteran at the time of his death.

The facts in the instant case, however, are unlike the ones under consideration in said opinion. In the matter before us, the question is whether or not a woman who was married to a veteran at the time of his death and subsequently marries and becomes divorced from her second husband is a widow within the meaning of the above Act.

In the case of *Hansen v. Bram and Stewart Company*, 103 Atl., 696, at page 697, the court held:

“Moreover, in the general sense of mankind, and in the legal sense, though the widow remarried, she did not cease thereby to be the widow of the deceased husband.”

68 Corpus Juris, 263.

In the case of *Ray’s Estate*, 35 N. Y. S., 481, the court held:

“A woman, though the wife of another, is still the widow of her former husband * * * and this being so, she comes not only within the language of the laws but within its just and reasonable construction * * * The word ‘widow’ has obtained a legal use and

significance in the settlement of estates which may not correspond to the technical definition of the lexicographers, but it is the duty of the courts to give that effect to this word which long use and custom have sanctioned.”

In the case of *Mathews v. Marsden*, 230 Pac., 775, at page 778, the court said:

“We think that the word ‘widow’ as used in the statute, refers to the person and not to her state or condition, whether she remains a widow or remarries again. We are of the opinion that it was not the purpose of our Legislature to penalize a widow in case of her remarriage * * *”

In light of the above authorities, it would appear that the subject of your communication, after once having become a widow of a Civil War veteran, remained his widow even though she remarried and was his widow during her marriage to her second husband, as well as subsequent thereto.

An examination of Section 2934, *supra*, discloses that all needy widows, wives and children of veterans shall be listed, including widows of soldiers, sailors and marines who have remarried *but again have become needy widows*.

From this, it appears clear that the legislature intended that a widow of a veteran, if she were needy, should be considered as being eligible for relief. Having pointed out in the course of the above observation that the woman in question became a widow of a veteran immediately upon the death of such veteran, it would seem that at any time in her life thereafter, whether or not she was subsequently married and divorced or living in a married state, if she became needy she would be eligible to the benefits of the law. For instance, let us assume that the widow of a veteran remarried and was subsequently deserted by her husband and not divorced by him. Under such circumstances, it is entirely conceivable that the woman would be needy and of course, as pointed out above, being a widow, would be entitled to be considered as eligible to benefits.

Therefore, in light of the foregoing and in specific answer to your question, I am of the opinion that a woman who was the wife of a Civil War veteran at the time of his death and who subsequently remarries, does not cease to be a widow of such veteran upon her remarriage and if at any time

after the death of her veteran husband such widow becomes needy, she would be eligible for consideration by the local soldiers' relief committee.

Respectfully,

THOMAS J. HERBERT,
Attorney General.