1389.

SOLDIERS RELIEF COMMISSION—DIVORCED WOMAN IS NOT A "WIDOW OF A SOLDIER WITHIN MEANING OF SAID ACT.

A divorced woman is not a "widow" in legal contemplation and the Soldiers' Relief Commission cannot properly recommend relief to an indigent woman who was once married to a soldier but now divorced.

COLUMBUS, OHIO, July 1, 1920.

HON HARRY S. CORE, *Prosecuting Attorney, Ottawa, Ohio.*

DEAR SIR:—In your recent communication you request the opinion of this department upon the following statement of facts:

> "Sarah Binkley sometime about the eventies became the wife of William O. Decker, who was a soldier of the civil war, and lived together a short time in this county. Decker abandoned his home in this county and moved to Toledo, Sarah Decker remaining here and has continued to make this her home all her life; was decreed a divorce at the June term of the court of Putnam county, cause No. 3378, and the journal entry shows that alimony was allowed in the sum of $300.00 and execution awarded. That said decree was granted on the ground of adultery on the part of the defendant, and that Sarah A. Decker was restored to her maiden name of Sarah A. Binkley.
>
> William O. Decker thereafter remarried and died leaving a widow of said marriage; that Sarah A. Decker now makes application through the township soldier's relief committee of Pleasant township, Putnam county for relief, and the question for the board to determine now, is, under the circumstances is she entitled to such soldiers' relief by favor of section 2934, or any other provision of the statute or law."

Section 2934 (108 O. L. p. 633) as last amended, which is pertinent to the question you present, provides:

> "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 the names of all indigent soldiers, sailors and marines, and of their indigent parents, wives, widows and minor children, including widows of soldiers, sailors and marines who have remarried, but again have become indigent widows, who reside in such township or ward, and including the soldiers, sailors and marines of the Spanish-American war, and the war with Germany, and their wives, widows, indigent 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."

It will be observed from the reading of the above section and other sections of the General Code in *pari materia* that the legislative intent is clear that any relief granted to needy persons by the soldiers' relief commission must be by reason of their being indigent soldiers or sailors or their indigent relatives as provided in said section 2934. Therefore, the only question is whether or not a divorced woman may be regarded as a "widow" within the meaning of said section.

In the case of Petersine vs. Thomas, 28 O. S. 596, it was said:

"After a divorce the parties are, in legal contemplation, strangers to each other * * *"

And in the case of Charlton vs. Miller, 27 O. S. 298, it was held:

"A divorced wife cannot be the testator's widow, and, hence, is not called on to elect between the will and dower."

In re Ashbaugh, 4 O. N. P. (n. s.) p. 631, it was held:

"A divorced woman is not a 'widow' within contemplation of the statute allowing homestead exemption to insolvent debtors with families or other dependents."

Bouvier's Law Dictionary has defined the word "widow" in the following language:

"An unmarried woman whose husband is dead."

In view of the foregoing authorities cited the conclusion seems irresistible that a divorced woman is not a "widow" in legal contemplation and that the soldiers' relief commission is without authority to recommend the furnishing of relief to such a person on the grounds that she is a "widow" of a soldier.

Respectfully,
JOHN G. PRICE,
Attorney-General.

1390.

OHIO NATIONAL GUARD—WHEN CERTAIN COMMISSIONED OFFICERS ARE ENTITLED TO INCREASED PAY UNDER PROVISIONS OF ACT OF CONGRESS (No. 210; H. R. 11927)—EXCEPTION.

Commissioned officers of the Ohio National Guard having the rank of colonel, lieutenant colonel, major, captain, first lieutenant, and second lieutenant are, by viriue of sections 5226,5227, 5228 *and* 5231 *G. C., entitled to increased pay at the rates, and during the period of time, provided in the act of congress approved May* 18, 1920 (*No.* 210; *H. R.* 11927); *subject, however, to the exception that the pay of the assistant adjutant general and of the assistant quartermaster general (both of whom have rank of lieutenant colonel) will continue only until the conclusion of peace, as provided in section* 5227 *G. C.*

COLUMBUS, OHIO, July 1, 1920.

HON. A. V. DONAHEY, *Auditor of State, Columbus, Ohio.*

DEAR SIR:—Your letter of recent date inquiring whether commissioned officers of the Ohio National Guard are entitled to receive increased or additional pay at the rates provided for in the act of congress entitled "An act to increase the efficiency of the commissioned and enlisted personnel of the army, navy, marine corps, coast guard, geodetic survey and public health service" (No 210; H. R. 11927), approved May 18, 1920, was duly received.

Omitting all reference to officers in the navy, marine corps, coast guard, geodetic