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1. RELIEF—PERSON WHO RESIDES IN ANY COUNTY IN STATE AND SUPPORTS HIMSELF OR HERSELF FOR TWELVE CONSECUTIVE MONTHS—WITHOUT RELIEF FROM AGENCY, CHARITABLE ORGANIZATION OR BENEVOLENT ASSOCIATION WHICH INVESTIGATES AND RECORDS FACTS AS TO THOSE WHO RECEIVE OR APPLY FOR RELIEF—SUCH PERSON ENTITLED TO RELIEF—SECTION 2930 ET SEQ., G. C.
2. PERSON ONCE RECEIVING RELIEF IN ONE COUNTY OF STATE—CAN NOT GAIN NEW LEGAL SETTLEMENT IN ANOTHER COUNTY ENTITLING PERSON TO RELIEF IN COUNTY OF NEW RESIDENCE SO LONG AS PERSON HAS NOT SUPPORTED HIMSELF OR HERSELF FOR TWELVE CONSECUTIVE MONTHS THEREIN—SECTION 3477 G.C.
3. EMERGENCY RELIEF TO SOLDIERS, THEIR RELATIVES AND DEPENDENTS—SECTION 2930 ET SEQ., G.C.—RELIEF MAY ALSO BE GIVEN UNER SECTION 3476 ET SEQ., G.C.—PROPER FUND OUT OF WHICH RELIEF MUST BE PAID.

SYLLABUS:

1. 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.

2. A person once receiving relief under the provisions of Section 2930 et seq. in one county of this state cannot gain a new legal settlement in another county of this state entitling him or her to relief in such county of his new residence so long as he has not supported himself or herself for twelve consecutive months therein as provided in Section 3477 of the General Code.

3. There is sufficient authority under Section 2930 et seq. of the General Code for emergency relief to soldiers, their relatives and dependents. However, relief may also be given in such emergencies under the so-called poor law, being Section 3476 et seq., General Code. It is only a question as to the proper fund out of which such relief must be paid.

Columbus, Ohio, April 29, 1949

Hon. James S. Peterson, Prosecuting Attorney
Fairfield County, Lancaster, Ohio

Dear Sir:

You have requested my opinion relative to the interpretation of the statutes providing for relief to soldiers and sailors, and that part of your communication which embraces the questions involved is as follows:

"The problem arises out of lack of uniformity among the counties in dispensing Soldiers Relief. A hypothetical case which is typical of many which have been considered by the local commission is as follows:

1. Applicant established residence in Fairfield County on September 1, 1947. He was placed on the eligible list on the first Monday of May 1948 and received relief. He moved from Fairfield County December 1, 1948, to Hocking County. Under Section 2934 he will not be eligible in Hocking County until May 1950, since he did not live there for six months prior to May 1949.

Quaere: How long can Fairfield County continue to furnish relief to that applicant? Can Fairfield County carry him until he becomes eligible in Hocking County? A. G. Opinions, 1947, No. 2190, says that the eligible person who removes to another county may continue to receive relief 'during the remainder of the period.'

The next situation is the converse of the one just posed.

2. Applicant moves into Fairfield County December 1, 1947; he receives relief in February, 1948. When the

eligibility list is made up on the first Monday of May 1948 applicant is ineligible.

Quaere: Must the commission wait until May 1949 before granting relief and certifying applicant on the list? What provision is made for a case of this kind if the answer to the quaere is in the affirmative? Must the commission rely on the emergency relief section, Section 2941?

3. Section 2936 provides that the commission shall determine from the lists an estimated amount necessary for relief for the ensuing year 'together with an amount sufficient in the judgment of the commission to furnish relief to any such indigent persons *not named on such lists* whose rights to relief shall be established to the satisfaction of the commission.'

Quaere: To what indigent persons does that section refer? We are unable to find any provision for relief to anyone other than those who can qualify under Section 2934, except the emergency relief provision referred to above. Does Section 3476, providing that the county may furnish relief when necessary even though residence requirements are not met, apply to Soldiers' Relief, and if so what would be the procedure for providing relief to those not meeting the residence requirements?"

Analyzing the above, I find the following questions are for my consideration:

1. When is a person within the contemplation of Section 2930, et seq., General Code, entitled to relief from a county where he or she has established a legal residence.

2. When such a person receives relief from a county where he or she has established a bona fide legal residence, how long may such county continue to furnish such relief after such person changes such residence to another county in this state.

3. Is Section 3476 of the poor law applicable to soldiers relief where residence requirements are not met.

From a careful reading of Section 2930 et seq., it is fairly evident that the legislature had in mind the setting out of procedure by which honorably discharged veterans, next of kin and their dependents who are therein named may be given relief in the township or ward and in their own homes when they are entitled to such relief. Such sections provide for the creation of a commission for the relief of soldiers, its organization,

annual meetings, payment of its expenses, the creation of a soldiers' relief commission and its term, those to whom relief should be given as well as a certified list of those to whom relief is given, the application for relief and determination of amount and tax for such relief, detailed statements are to be made as to the disbursement of relief and the increase or decrease of the allowances.

From reading such sections there is no reason to conclude that the legislature intended that needy veterans, their relatives and dependents should be given any different consideration than that which a great state out of its bounty desires to give or makes provision to give to the poor, needy or unfortunate of any other class of its citizens. Misfortune does not single out any class or group —of people —upon which to inflict itself, but when it falls, human experience has taught us that the hand which reaches out to soothe the pain of the blow has a softer feeling if it is the hand of one of our own particular group, circle or fraternity, and because veterans have always had a feeling in common, born out of their common experience, legislation providing for the distribution of relief to needy veterans by their comrades has been enacted in the above referred to sections, and such sections are intended to provide the procedure to be followed in order that soldiers, their relatives and dependents should be given relief by their comrades from a fund specially raised by taxation for that purpose. The provision in Section 2934, General Code, for the acceptance of applications by the commissioners is only for the purpose of determining the approximate amount necessary. It will be noted that a list shall be made on the first Monday on May in each year of such persons 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 noted that no specific definition is given in Section 2930 et seq. as to just what the status of a person provided for therein must be to entitle him or her to relief. However, as stated heretofore, it is my opinion that soldiers are not intended to be more liberally treated than other poor.

Section 3477, General Code, being a part of the poor law, provides:

“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. No adult person coming into this state and having dependents residing in another state, shall obtain a legal settlement in this state so long as such dependents are receiving public relief, care or support at the expense of the state, or any of its civil divisions in which such dependents reside."

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.

To adopt any other view would be the sanctioning of class legislation, and this view is clearly expressed in Opinions of the Attorney General for the year 1933, Vol. I, page 416:

"Your question is whether soldiers' relief granted under sections 2930 to 2941, inclusive, to 'all needy soldiers, sailors and marines', as provided in section 2934, is 'relief under the provisions of law for the relief of the poor.' It appears self-evident that a provision of law for the relief of 'needy' persons is one for the relief of the poor. It seems to me immaterial that section 2934 concerns needy soldiers rather than all needy persons, or needy persons of some other class. In an opinion reported in Opinions of the Attorney General for 1919, Vol. I, page 53, one of my predecessors held that the blind relief statute (as amended, 103 O.L. 60) was a provision of law for the relief of the poor under section 3477. In another opinion of this office, reported in Opinions of the Attorney General for 1928, Vol. III, page 2227, it was held that aid furnished by the State Division of Charities to a mother for the care of her children constituted relief of the kind mentioned in section 3477. I see no material distinction between a law providing for the relief of needy blind persons or needy children and one for the relief of soldiers who require assistance.

"I am therefore of the opinion that, although one has continuously resided in a county for twelve consecutive months and in a township therein for three consecutive months, if during that time he has been receiving soldier's relief under section 2930 et seq., he has not established a legal settlement under sections 3477 and 3479."

See also *State, ex rel. Alexander v. Esbaugh*, 2 O.O. 345 (C.P.):

“The failure of a resident to support himself twelve months continuously, as required by G. C. Sec. 3477, must be considered, under the provisions of G. C. Sec. 3478, as prima facie evidence of intention of making himself a public charge, which evidence may be rebutted by evidence of a contrary intention, and upon such showing, failure to so support himself does not bar the person from relief.”

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.

Therefore, in answer to question 1 under my analysis, when a person within the contemplation of Section 2930 et seq. of the General Code, 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.

See the third branch of the syllabus in the case of *Stocklein v. Priddy, et al.*, 31 N.P. (N.S.) 369:

“So long as public support or relief is being given to a person by any county of the state in which such person has a legal settlement, such person cannot acquire a legal settlement in a second county of the state wherein such person has resided for one year even though public support has not been furnished by the second county.”

Therefore, in answer to the second question under my analysis above, it is my opinion that a person once receiving relief under the provisions of Section 2930 et seq. in one county cannot gain a new legal settlement in another county in this state entitling him or her to relief in the county of his new residence so long as he has not supported himself or herself for twelve consecutive months therein as provided in Section 3477 of the General Code.

I find nothing in the sections above referred to that indicates in any manner that those persons contemplated are required to make application before the first Monday in May of each year or that their names must be on any particular list to entitle them to relief if and when adversity should befall them if they are otherwise entitled to relief. In this connection see Section 2937, General Code:

*“On the fourth Monday of November of each year * * * the soldiers’ relief commission shall meet * * * and examine carefully the list * * * and also all cases not included in such lists, who, before and during their session, have been recommended to the commission for aid under these provisions. If satisfied that those so recommended, or any of them are in need of assistance and are entitled thereto under these provisions, the commission shall fix the amount to be paid each month in each case to such person or family.”* (Emphasis added.)

Then Section 2939, General Code, provides for disbursement of aid to those not on the regular list. Section 2941 provides for emergency cases. See Opinions of the Attorney General for 1933, page 61, where it is stated:

“Application for soldiers’ relief, under sections 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.”

And again, in Section 2936:

*“On such last Monday in May the commission shall meet and determine from such lists the probable amount necessary for the aid and relief of such indigent persons for the ensuing year, together with an amount sufficient in the judgment of the commission, to furnish relief to any such indigent persons not named on such lists, whose rights to relief shall be established to the satisfaction of the commission. * * *”*

And again see Opinions of the Attorney General for 1935, Vol. 1, page 836, where it is stated in substance that the county commissioners have discretionary power to appropriate an amount to the soldiers’ relief commission in excess of that certified as being necessary.

All the foregoing indicates to me that the legislature intended that both the soldiers’ relief commission and the county commissioners have such discretionary power to provide for emergencies and unforeseen hardships, and to always have an additional potato in the pot. It also appears

to me that when any person contemplated by Section 2930 et seq. becomes in need of aid he shall be given same whether he is on a list furnished by the committee or not if he is otherwise entitled to same.

Therefore, in answer to the third question in my analysis, there is sufficient authority under Section 2930 et seq. for emergency relief to soldiers, their relatives and dependents. However, relief may also be given in such emergencies under the so-called poor law, being Section 3476 et seq. It is only a question as to the proper fund out of which such relief must be paid. Under the latter sections such relief must be paid out of the regular poor fund and administered by the township trustees and municipal officers, while if it is paid out of the soldiers' relief fund it must be paid by the soldiers' relief commission.

Respectfully,

HERBERT S. DUFFY,
Attorney General.