

being paid or tendered; or refuses to give a receipt therefor, when required; or fails to number consecutively all deeds or other instruments of writing upon receipt thereof; or fails to index a deed or other instrument of writing, by the morning of the day next after it is filed for record; or neglects, without good excuse, to record a deed or other instrument of writing within twenty days after it is received for record; or demands and receives a greater fee for his services than is allowed by law; or knowingly indorses on a deed or other instrument of writing a different date from that on which it was presented for record, or a different date from that on which it was recorded; or refuses to make out and certify a copy of any record in his office, when demanded, his legal fee therefor being paid or tendered; or purposely destroys, defaces, or injures any book, record, or seal belonging to his office, or any deed or other instrument of writing deposited therein for record, or negligently suffers it to be destroyed, defaced, or injured; or does or omits any other act contrary to the provisions of this chapter, he shall be liable to a suit on his bond, at the instance and for the use of the party injured by such improper conduct."

I find in the statute with reference to the duties of the county recorder, no legislative inhibition against his right to engage in other occupations than those of county recorder. In your inquiry you state that no part of the business hours of the county recorder are used in obtaining or disseminating the information described in your inquiry. It would therefore appear that such conduct is not prohibited by statute.

Specifically answering your inquiry I am of the opinion that a county recorder is not prohibited by the statutes of Ohio from obtaining or disseminating among business men information concerning the filing of chattel mortgages and liens when no part of the business hours of the county recorder are used either in the collection or dissemination of such information, and that any remuneration received by the county recorder is not required to be paid into the county treasury.

Respectfully,

JOHN W. BRICKER,
Attorney General.

150.

SOLDIERS' RELIEF—CITIZEN OF UNITED STATES, NOW A RESIDENT OF COUNTY IN OHIO WHO SERVED IN CANADIAN ARMY NOT ENTITLED TO SUCH RELIEF.

SYLLABUS:

A citizen of the United States, now a resident of a county in Ohio, who served in the Canadian army during the World War, is not entitled to soldiers' relief under the provisions of section 2930, et seq. of the General Code.

COLUMBUS, OHIO, February 18, 1933.

Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

GENTLEMEN:—I have your letter of recent date which reads as follows:

"You are respectfully requested to furnish this department with your written opinion upon the following:

A citizen of the United States, now a resident of Washington County, Ohio, at the beginning of the World War, enlisted in the Canadian Army and served during the war.

QUESTION: Is this soldier entitled to relief under the provisions of the Soldiers' Relief law of this State?"

Sections 2930, et seq., of the General Code, provide for relief to indigent soldiers, sailors and marines, and to certain classes of indigent relatives of such persons. Section 2934 (as amended, 114 O. L. 70), which specifies those persons entitled to relief, 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 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, require aid, and are entitled to relief under these provisions."

After reviewing the history of this section, my immediate predecessor in an opinion reported in Opinions of the Attorney General for 1931, Vol. I, page 278, said at page 279:

"From this history, I am unable to ascribe to the terminology used any different meaning than that which is apparent upon its face. If the words 'all indigent soldiers, sailors and marines' are of no significance and one must look to the explanatory phrases thereafter for the authority to extend benefits, then quite obviously a very substantial number of persons who have always been entitled to relief would be omitted. I have reference to Civil War Veterans, and those of our military, naval and marine forces who have served in lesser conflicts such as Indian Wars, the Boxer Rebellion, Mexican Expedition and other like occasions. Manifestly, no such restricted meaning may be applied, for surely it was not the intention of the legislature to confine the beneficiaries of relief to soldiers, sailors and marines of the Spanish-American War and the World War only."

This opinion held that all indigent soldiers, sailors and marines and their relatives, of those classes enumerated in the statute, were entitled to relief regardless of the fact that such members of the armed forces may not have had any actual war service. The Attorney General was of the opinion that the terms "Spanish-American war" and "world war" were inserted in the statute out of abundant caution and not for the purpose of excluding from its provisions members of the army in times of peace and marines who may have seen action only in Nicaragua.

My predecessor's opinion went no further than to include all members "of the armed forces of the United States" within the meaning of "all indigent soldiers, sailors and marines," the classes entitled to relief. This statute in its original form was enacted in May, 1886 (83 O. L. 232), and as shown by the former opinion of this office, the statute amended was not especially designed to aid indigent veterans of the world war.

Article VIII, section 2a, of the Constitution (adopted November 8, 1921), creating the World War Compensation Fund, did relate specifically to veterans of the world war, and the language defining those entitled to compensation varies materially from the wording of section 2934. Those entitled to compensation are "persons resident in Ohio at the time of commencement of service who served honorably on active service in the army, navy or marine corps of the United States of America, or being also citizens of the United States, in similar forces of any of the governments associated with the United States in the world war." While construing section 2934 my predecessor deemed this constitutional provision irrelevant in defining "soldiers, sailors and marines." I likewise see no relation between the constitutional provision and the statute. On the contrary, I believe the legislature in amending the relief statute would have used language equally as clear as that employed in the Constitution had it intended to include soldiers of other governments within the provisions of that statute.

The words "all indigent soldiers, sailors and marines" must have some limitation. Standing alone, these words refer to the soldiers of every nation in the world, yet obviously as used in the statute they do not refer to members of the armed forces of other countries who are not citizens of the United States but who reside in Ohio. I believe it to be equally clear that the words comprehend all members of the armed forces of the United States now resident in Ohio regardless of citizenship.

The statutory provisions relating to soldiers' burial plots (section 2943, et seq.) immediately follow those relating to soldiers' relief. The burial statute (99 O. L. 443) was enacted several years after the original relief statute but prior to the enactment of the relief statute in its present form. The soldiers' relief commission is the body which administers both statutes. Section 2949 provides:

"The word 'Soldiers' shall mean: An honorably discharged soldier, sailor, or marine, who served in the army or navy of the *United States of America*. The words, 'soldiers' plot' shall mean: A plot of land in any cemetery, set apart to be exclusively used for interring the remains of deceased veteran soldiers of the *United States*. (Italics writer's.)

I deem the sections granting relief for indigent soldiers and those providing for their burial to concern varied aspects of a common subject and therefore in *pari materia*. 1 Lewis' Sutherland Statutory Construction, section 448, reads:

"Where enactments separately made are read in *pari materia*, they are treated as having formed in the minds of the enacting body parts of a connected whole, though considered by such body at different dates, and under distinct and varied aspects of the common subject. * * *

It is true that certain other sections of the Code refer to soldiers, sailors and marines in the forces "of the United States." Among these sections are 1909, providing for admission to the Ohio Soldiers' and Sailors' Home; sections 14867-2

and 14867-3, relating to badges of honor; section 3069-1, defining those eligible for employment in county memorial buildings; section 2958, relative to markers for soldiers' graves; section 486-10, giving additional credit in civil service examinations; and section 7930-1, providing for free tuition in state universities. According to one canon of construction, it may be argued that the words of limitation contained in these sections being absent from section 2934, the latter section must be construed to include those in the armed forces of other nations. I cannot accept this construction. In my opinion, the legislature inserted the words "of the United States" in the sections referred to out of an abundant caution. It is clear to me that the words "soldiers, sailors and marines", as used in section 2934, without words of qualification or explanation, do not comprehend soldiers, sailors and marines in the service of governments other than the United States.

If the statute as so construed appears to be unjust to a citizen of the United States who joined in the world war as a soldier of Canada without awaiting the organization of the American expeditionary force, the remedy is with the legislature.

Specifically answering your question, I am of the opinion that a citizen of the United States, now a resident of a county in Ohio, who served in the Canadian army during the world war, is not entitled to soldiers' relief under the provisions of section 2930, et seq., of the General Code.

Respectfully,
 JOHN W. BRICKER,
Attorney General.

151.

APPROVAL, LEASE TO RESERVOIR LANDS IN LICKING AND PERRY
 COUNTIES, OHIO.

COLUMBUS, OHIO, February 18, 1933.

HON. EARL H. HANEFELD, *Director of Agriculture, Columbus, Ohio.*

DEAR SIR:—This is to acknowledge receipt of a communication over the signature of the Chief of the Bureau of Inland Lakes and Parks in the Division of Conservation, submitting for my examination and approval a certain reservoir land lease in triplicate which has been executed by the Conservation Commissioner under authority of Section 471 of the General Code, as said section is amended in the Conservation Act, enacted by the 89th General Assembly.

The lease here in question is one executed to the Plymouth Land Company of Ravenna, Ohio, and is for the stated term of fifteen years conditioned on the payment of an annual rental of \$120.00.

Subject to the rights of the Baltimore and Ohio Railroad Company and of certain named individuals who have leases covering small parcels of the land, this lease grants to the Plymouth Land Company the right to use and occupy for public park and docklanding purposes that portion of the state reservoir land lying between a line that is twelve (12) feet back of a contour line two and seven-tenths (2.7) feet above the waste-weir line of Buckeye Lake, and the ordinary water line of said lake, beginning at the westerly line of the lands of the lessee at or near Station 559 plus 93 of W. C. Row's survey along the north shore of Buckeye Lake, and extending thence easterly with the meanderings of said line