

Section 486-10 of the General Code of Ohio, which provides that additional credit be given to veterans in civil service examinations, enumerates the following as veterans:

"Any soldier, sailor, marine, member of the army nurse corps or Red Cross nurse who has served in the army, navy or hospital service of the United States in the war of the rebellion, the war with Spain, or the war with the central powers of Europe between the dates of April 6th, 1917 and November 11th, 1918, who has been honorably discharged therefrom".

In the case before us, from the language employed in the statute, the legislature has clearly expressed itself as to who shall be employed by soldiers' relief commissions, and it therefore seems clear that no one may be employed in any capacity by a soldiers' relief commission other than an investigator or clerk, and a person so employed must be an honorably discharged soldier, sailor, marine or nurse who has served in the war with Spain or in the World War between April 6, 1917 and November 11, 1918.

In view of the discussion herein and in specific answer to your several questions, I am of the opinion that:

1. Any person who was prior to the enactment of Section 2933-1, General Code, in the employ of a soldiers' relief commission, was illegally employed and may be summarily dismissed from such employment.

2. A soldiers' relief commission may employ only honorably discharged veterans of the war with Spain or the World War as investigators and clerks.

3. The provisions of Section 2933-1, General Code, with respect to investigators and clerks employed by soldiers' relief commissions, are not subject, limited or qualified by Section 486-8 of the General Code, and the Civil Service Commission of Ohio is governed solely by the provisions of Section 2933-1 in determining whether or not a person so employed is in the classified or unclassified service.

4. The provisions of Section 2933-1, General Code, with reference to the appointment of investigators and clerks by a soldiers' relief commission, are mandatory.

5. A soldiers' relief commission, under the provisions of Section 2933-1, General Code, may only employ as such investigators and clerks honorably discharged soldiers, sailors, marines or nurses of the war with Spain or the World War between April 6, 1917 and November 11, 1918.

Respectfully,

JOHN W. BRICKER,

*Attorney General.*

3053.

INMATE—PROCEEDINGS TO LEGALLY PRESUME DEAD INSTITUTED  
WHEN—DISPOSITION OF MONEY ON DEPOSIT BY INMATE.

*SYLLABUS:*

*Proceedings may be instituted under Sections 10509-25, et seq., General Code, to have legally presumed dead an inmate of a state institution who has escaped and not been heard from for seven or more years, and money on deposit in the name*

*of the superintendent of such state institution, as trustee for such inmate, may be closed out and distributed according to law after a legal presumption of death has been made out.*

COLUMBUS, OHIO, August 17, 1934

HON. JOHN MCSWEENEY, *Director of Public Welfare, Columbus, Ohio.*

DEAR SIR:—YOUR request for my opinion reads as follows:

“Would you care to make a ruling on the length of time bank deposits made by inmates of state institutions shall be held in trust for such inmates?”

The superintendents of our state institutions have in their possession several passbooks covering small amounts deposited by persons while confined in the institutions, such persons having escaped and not located or heard from for periods of several years. It is our desire to close some of these old accounts, if possible.”

From the above communication, it appears that in some instances, the deposits were made by the superintendents of the institutions as trustees for the inmates, while in others deposits were made by the inmates themselves and the passbooks are now being held by the heads of the institutions.

Of course, in the first instance, the money on deposit could be withdrawn by the trustee but in that event the trustee not knowing where the beneficiary is, could obviously not turn it over, and likewise until the death of the beneficiary he could not turn over the money to the next of kin. Where the money has been deposited by the inmate himself, the depository cannot legally pay said money over to any person except to the depositor himself or in the case of the death of the depositor to his or her legal representative.

It is stated in your letter that said inmates have escaped and have not been located or heard from for periods of several years. Section 10509-25 of the General Code reads as follows:

“Hereafter, whenever any person shall be presumed to be dead on account of seven or more years' absence from the place of his or her last domicile (whether said domicile be within this state or any other state, territory or possession of the United States, or in any foreign country), any person entitled under the last will and testament of such presumed decedent or under the intestate laws, to any share in his or her estate within this state, or the attorney general for the state, may present a petition to the probate court of the county of such person's last residence; or, where the presumed decedent was a non-resident of this state, in the probate court of the county where the greater part of his property within this state may be situated, setting forth the facts which raise the presumption of death. The said court, if satisfied as to the person who would be entitled to letters testamentary or of administration were the presumed decedent in fact dead, shall cause to be advertised, in a newspaper published in said county, once a week for four successive weeks, together with such other advertisement as the court, according to the circumstances of the case, shall deem expedient or advisable, the fact of such application, together with notice that on a day certain, which shall be at least two weeks after the last appearance

of said advertisement, the court, or master appointed by the court for that purpose, will hear evidence concerning the alleged absence of the presumed decedent and the circumstances and duration thereof."

If the absence has been for seven or more years, proceedings may be instituted in accordance with Section 10509-25, supra, and if a legal presumption of death is made out, and a decree entered by the probate court of the county in which the action is instituted, the bank, in the case of deposits made by the inmates themselves, could turn the amount on deposit over to the personal representative of the presumed decedent.

Likewise, in the case of deposits made by the superintendent as trustee, if the inmate is presumed dead, upon the death of the beneficiary the object of the trust having been entirely fulfilled, the trust is terminated, and the trustee is then at liberty to withdraw the money on deposit and turn the same over to the personal representative of the presumed decedent. However, in the event the person presumed dead leaves no next of kin, the money on deposit in either instance would go to the state of Ohio.

Therefore, in specific answer to your question, I am of the opinion that if the absence of the inmates has been for seven or more years, the only manner in which the accounts referred to in your letter could be closed, would be by proceedings under Section 10509-25, et seq., General Code, which, when completed, would authorize the money to be distributed according to the last will and testament of the inmate or under the intestate laws of Ohio; however, if the absence has been for a lesser period than seven years, nothing can be done to close said accounts.

Respectfully,  
 JOHN W. BRICKER,  
*Attorney General.*

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3054.

APPROVAL, AMENDED ARTICLES OF INCORPORATION OF THE  
 MONARCH FIRE INSURANCE COMPANY.

COLUMBUS, OHIO, August 18, 1934.

HON. GEORGE S. MYERS, *Secretary of State, Columbus, Ohio.*

DEAR SIR:—I have examined the amended articles of incorporation of the Monarch Fire Insurance Company and finding the same not to be inconsistent with the laws or Constitution of the United States or of the State of Ohio, I am endorsing my approval thereon.

Respectfully,  
 JOHN W. BRICKER,  
*Attorney General.*