

1615

1. AID TO THE BLIND—COUNTY COMMISSIONERS—CAPACITY, ADMINISTRATORS OF SUCH AID, REQUIRED TO LIST NAMES OF RECIPIENTS IN SUCH MANNER IDENTITY NOT DISCLOSED BY RECORD OF PROCEEDINGS OPEN TO GENERAL PUBLIC—SECTION 2968 G.C.
2. COUNTY AUDITOR REQUIRED TO MAINTAIN RECORDS IN SUCH MANNER RECIPIENTS MAY NOT BE READILY IDENTIFIED BY PERSONS NOT CONNECTED WITH ADMINISTRATION OF AID TO BLIND.

## SYLLABUS:

1. The action of a Board of County Commissioners in its capacity of administrator or aid to the blind is covered by Section 2968, General Code, and the provisions thereof require the Board of County Commissioners to list the names of recipients of such aid in such a manner that the identity of said recipients is not disclosed by the record of proceedings open to the general public.

2. Section 2968, General Code, requires a County Auditor to maintain his records in such a manner that the recipients of aid to the blind may not be readily identified by persons not connected with the administration of aid to the blind who have access to said records.

Columbus, Ohio, February 11, 1947

Mr. Henry J. Robison, Chief, Division of Social Administration  
Department of Public Welfare, Columbus, Ohio

Dear Sir:

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

“Effective July 1, 1941, the Social Security Act was amended by the Congress of the United States to require that ‘A state plan for aid to the blind must \* \* \* provide safeguards which restrict the use or disclosure of information concerning applicants and recipients to purposes directly connected with the administration of aid to the blind’. To meet this condition, Section 2968 of the General Code was amended on May 13, 1941 to provide authority for the state Department of Public Welfare to issue regulations governing the disclosure of information and to require agencies other than the administration of aid to the blind to provide safeguards against the disclosure of information for purposes not

directly connected with the administration of aid to the blind. A copy of the regulations authorized by Section 2968 is attached. These regulations were filed in the office of the Secretary of State as required by law and were given to the Board of County Commissioners, the Auditor and the Treasurer of each county in the state at the time of their adoption.

Officials of several counties have contended that the provisions of Section 2968 are in conflict with other sections of the General Code and are therefore not effective. We are, therefore, requesting your opinion on the following questions:

1. Must the action of the Board of County Commissioners in their capacity of administrators of aid to the blind be recorded in the Commissioners' Journal? If so, are they required by Section 2968 to record their actions in such a manner that the recipients of aid to the blind can not be readily identified by persons having access to the Journal?

2. Does Section 2968 of the General Code make it mandatory for the County Auditor to maintain his Journal of Warrants issued in such a manner that the recipients of aid to the blind are not readily identified by persons not connected with the administration of aid to the blind who have access to the Journal?"

Before examining the statutes bearing on this subject, it may be well to point out that the Congress enacted so-called "blind relief" legislation. If the state or its subdivisions wish to enjoy the benefits and advantages of the federal act, they must abide by its terms and provisions. Accordingly, to enable the state to meet the situation, the General Assembly enacted Sections 2968, 2968-1, 2968-2 and 2968-3, General Code. I shall quote so much thereof as is pertinent to this discussion.

Section 2968 reads in part:

"At least once each quarter of the calendar year, and oftener if directed by the state Department of Public Welfare, the Board of County Commissioners shall make examination as to the qualifications, eligibility and needs of any or all persons on the blind lists, and said board may at any time increase or decrease the amount of such relief according to budgetary requirements and under the provisions of this act. The Board of County Commissioners shall notify the state Department of Public Welfare of such action in such form and manner as the said department may prescribe. \* \* \*

The rule-making power of the state Department of Public Welfare shall include the power to establish and enforce reason-

able rules and regulations governing the custody, use and preservation of the records, papers, files and communications, of said department, the county administration of aid to the needy blind and all other state and county officials participating in the administration of this act. Wherever, under provisions of law, *names and addresses of recipients of aid to the needy blind or applicants for such aid, or any other disclosure of information concerning such recipients or applicants, are furnished to or held by any other agency, department or officer of government, such agency, department or officer of government shall be required to adopt regulations necessary to prevent the publication of lists thereof or the disclosure of information concerning applicants and recipients or the use of such lists or information for the purposes not directly connected with the administration of aid to the needy blind.*

It shall be unlawful, except for purposes directly connected with the administration of public assistance, and in accordance with the rules and regulations of the state Department of Public Welfare, for any person or persons to solicit, disclose, receive, make use of, or to authorize, permit, participate in or acquiesce in the use of, any list of or names of persons applying for or receiving such assistance, directly or indirectly derived from the records, papers, files, or communications of said department or county administrations or agencies thereof, or acquired in the course of the performance of official duties." (Emphasis added.)

I quote also the following excerpt from Section 2968-1, General Code:

"The state of Ohio hereby assents to the provisions of the act of Congress known as the Social Security Act, approved August 14, 1935, Public No. 271—Seventy-fourth Congress, and more particularly to Title X—Grants to States For Aid to the Blind, of the said Social Security Act. The state Department of Public Welfare is hereby designated as the state agency for supervision of aid to the blind and is hereby authorized to apply for federal assistance in accordance with said Title X of said Social Security Act and empowered to direct the expenditure of all state and federal monies provided for carrying out the purposes of said Title X of said Social Security Act. \* \* \*

The state Department of Public Welfare shall have power to make all reasonable rules and regulations for the administration of aid to the blind (otherwise termed 'blind relief'), which rules and regulations shall be binding upon the several counties. Whenever the state Department of Public Welfare shall determine that the provisions of this act and the rules, regulations and orders of the said department are not being complied with in any county, the

state Department of Public Welfare may supersede the county administration and itself exercise the powers and duties thereof until satisfied that such provisions, rules, regulations and orders will be complied with, in which event the said department shall notify the county administration and the County Auditor of its action, and thereafter and while such action remains in effect, the said department shall have authority to expend all amounts in the county treasury, appropriated for any of the purposes of this act, and all amounts apportioned and paid to such county under this act, and the County Auditor of such county shall, for the purposes of such expenditures and otherwise, recognize the said department as the county administration for all of the purposes of this act."

There is no question but that it was the definite legislative intention that the confidential relationship here involved should be protected and the privacy of families safeguarded.

The provisions of law relating to the maintenance of public records by the Board of County Commissioners are set out in Sections 2406 and 2407, General Code, which sections read :

Section 2406 :

"The clerk shall keep a full record of the proceedings of the board, and a general index thereof, in a suitable book provided for that purpose, entering each motion with the name of the person making it on the record. He shall call and record the yeas and nays on each motion which involves the levying of taxes or the appropriation or payment of money. He shall state fully and clearly in the record any question relating to the power and duties of the board which is raised for its consideration by any person having an interest therein, together with the decision thereon, and shall call and record the yeas and nays by which the decision was made. When requested by a party interested in the proceedings or by his counsel, he shall record any legal proposition decided by the board, the decision thereon and the votes by which the decision was reached. If either party, in person or by counsel, except to such decision, the clerk shall record the exceptions with the record of the decision."

Section 2407 :

"Immediately upon the opening of each day's session of the board, the records of the proceedings of the session of the previous day shall be read by the clerk, and, if correct, approved and signed by the commissioners. When the board is not in session, the record book shall be kept in the auditor's office, and open at

all proper times to public inspection. It shall be duly certified by the president and clerk, and shall be received as evidence in every court in the state."

The duty of the County Auditor with reference to the maintenance of his Journal of Warrants Issued is defined in Section 2570, General Code, which I quote:

"Except moneys due the state which shall be paid out upon the warrant of the Auditor of State, the County Auditor shall issue warrants on the County Treasurer for all moneys, payable from such treasury, upon presentation of the proper order or voucher therefor, and keep a record of all such warrants showing the number, date of issue, amount for which drawn, in whose favor, for what purpose and on what fund. He shall not issue a warrant for the payment of any claim against the county, unless allowed by the County Commissioners, except where the amount due is fixed by law or is allowed by an officer or tribunal authorized by law so to do."

We are confronted here with a question involving the interpretation of two sets of statutes, one general in its nature in that it covers records generally, namely Sections 2406, 2407 and 2570, and the other specific in character, namely Sections 2968, 2968-1 to 2968-3, inclusive, dealing only with aid to the blind. The law applicable to cases involving general and special statutes covering the same subject matter has been stated by our Supreme Court in a number of instances.

In *State, ex rel., v. Zangerle*, 100 O. S. 414, the first paragraph of the per curiam opinion reads:

"A special statute covering a particular subject-matter must be read as an exception to a statute covering the same and other subjects in general terms."

Likewise, in *State, ex rel., v. Connor*, 123 O. S. 310, the first paragraph of the syllabus reads:

"Special statutory provisions for particular cases operate as exceptions to general provisions which might otherwise include the particular cases and such cases are governed by the special provisions."

In *Leach v. Collins*, 123 O. S. 530, the court, in determining whether or not a special statute enacted for a particular purpose and providing for a specific and definite proceeding, and prescribing in detail the method

and form of procedure, was controlling over a general statutory provision, used the following language :

“It is well settled that such specific statutory provisions are to be regarded as exceptions to general statutory provisions  
\* \* \*.”

The above principle has been held to apply even where the general provisions of law were enacted later in time than the special, and where a general provision was amended after the enactment of a special provision. See *Shunk v. First National Bank*, 22 O. S. 508; *The State v. Jackson*, 36 O. S. 281; *Muskingum County v. Board of Public Works*, 39 O. S. 632; *State v. Borham*, 72 O. S. 368.

Clearly, then, such rule would be particularly applicable in the instant case where the special provision is of later enactment.

I have examined the regulations promulgated and filed by the Department of Public Welfare with the Secretary of State and I find them not inconsistent with the authorization contained in the statutes cited.

It may be well to point out that the Board of County Commissioners is under no restraint as to the manner of recording its actions required by virtue of the prior statutes. Neither is the County Auditor. Proper entries may be made in a separate journal maintained for the purpose. I have no doubt as to the extent of the implied powers of those officers in such respects.

In concluding this discussion, I desire to draw attention to Article XV, Section 3 of the Constitution of the State of Ohio, which reads :

“An accurate and detailed statement of the receipts and expenditures of the public money, the several amounts paid, to whom, and on what account, shall, from time to time, be published, as shall be prescribed by law.”

In view of the above provisions, it would appear that grave doubt may exist as to the validity of Section 2968 et seq.

Be that as it may, since it has always been the policy of this office to regard the passing upon the constitutionality of statutes defining powers and duties of public officials as the highest prerogative of the judicial branch of the government, I feel that, consistent therewith, I should express no opinion on said question.

Therefore, in specific answer to your questions, you are advised that:

1. The action of a Board of County Commissioners in its capacity of administrator of aid to the blind is covered by Section 2968, General Code, and the provisions thereof require the Board of County Commissioners to list the names of recipients of such aid in such a manner that the identity of said recipients is not disclosed by the record of proceedings open to the general public.

2. Section 2968, General Code, requires a County Auditor to maintain his records in such a manner that the recipients of aid to the blind may not be readily identified by persons not connected with the administration of aid to the blind who have access to said records.

Respectfully,

HUGH S. JENKINS,  
Attorney General.