

The language of the court is very broad and would seem to cover every case, but it is my opinion that the decision must be limited to the particular facts involved therein. It should be noted that in the case cited, the same board which found in favor of the improvement also made an order dismissing all of its action taken on the matter. In the case involved herein, there is an entirely new board endeavoring to rescind the action of the former board. Also, in the case cited, the board of county commissioners were not rescinding their former action because of any further investigation or determination of its value or necessity to the public health, convenience or welfare but merely on the ground that they were without further jurisdiction to proceed with the improvement, due to the unconstitutionality of certain sections of the drainage law. However, the board of county commissioners in the case involved here is being asked to make a new finding as to the necessity or value of the improvement which would involve hearing additional testimony and making further investigation. Because of these two important distinctions, it is my opinion that the case of *Rambarger vs. Curl, supra*, would not be controlling in this case.

The question is not asked as to whether or not the order of the former board of county commissioners is mandatory on the new board and as a result no opinion is rendered thereon.

In specific answer to your question, assuming that no rights have accrued by virtue of the board's order, I am of the opinion that a board of county commissioners has no right or power to review or rescind any order made by a former board of county commissioners unless it was illegal or unauthorized.

Respectfully,

JOHN W. BRICKER,
Attorney General.

590.

SOLDIER'S RELIEF—STEPMOTHER OF SOLDIER, SAILOR OR MARINE NOT ENTITLED THERETO UNDER G. C. SEC. 2930 ET SEQ.—DISTINGUISHING STEPMOTHER AND ADOPTING PARENT—PARENT DEFINED.

SYLLABUS:

The stepmother of a soldier, sailor or marine is not eligible to relief under sections 2930 et seq. of the General Code, such person not being a member of any of the classes of beneficiaries in section 2934, General Code.

COLUMBUS, OHIO, April 14, 1933.

HON. C. G. L. YEARICK, *Prosecuting Attorney, Newark, Ohio.*

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

"The Soldiers' Relief Commission of this county desires to know whether under Section 2934 of the General Code it is within their power to give relief to the stepmother of a World War Veteran. The stepmother has acted in the position of mother, having married the father of the veteran while the veteran was still a minor and having cared for him during that time."

Section 2934 of the General Code 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 indigent soldiers, sailors and marines, and of their indigent parents, wives, widows 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, or of the world war 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, requires aid, and are entitled to relief under these provisions."

By expressly including several classes of beneficiaries, the legislature has impliedly excluded all others from the benefits of the act. *Expressio unius est exclusio alterius*. If they are entitled to relief, stepmothers must be included within the term "parents."

Webster's New International Dictionary defines "parent" as follows:

"One who begets, or brings forth, offspring; a father or a mother. Parent is sometimes used popularly and in statutes to include persons standing in loco parentis other than the natural parents, as in Lord Campbell's Act, where it is defined to include father, mother, grandfather, grandmother, stepfather or stepmother; and it is sometimes construed as equivalent to ancestor, and regularly so in certain cases in the civil law."

No cases under the Ohio enactment of Lord Campbell's Act, holding a stepmother or stepfather to be a parent, have come to my attention. The court in *Ransom vs. Railway*, 93 O. S. 223, held that under the Ohio wrongful death statute, the word "parent" as used in section 10772 (repealed, 114 O. L. 320) included "adopting parents." There is, however, a clear distinction between the legal status of an adopting parent and a stepfather or stepmother. A child inherits from the former but not from the latter. The incidents of adoption are enumerated in section 8030, General Code. Under this section an adopting parent owes the duty to support his adopted child, and is entitled to the services of such child during minority, whereas a stepfather or stepmother owes no duty to support and has no right to the services of the stepchild. *Trustees vs. Trustees*, 5 Ohio, 316.

In *State vs. Barger*, 14 Ohio App. 127, it was held that prosecution does not lie against a stepfather under section 12970 for failure to provide for his stepchildren. The court said at page 129:

"We have no hesitancy in saying that we believe that it was not the intention or purpose of the legislature, in the enactment of Section 12970, General Code, to include step-parent in the word parent. If it had been the intention of the legislature so to do, it would have written therein the word 'step-father' or 'step-mother.' Not having done so, we hold that

it was not the intention of said legislative enactment to include within said penal statute step-father or step-mother. *We hold that, in the legal or ordinary acceptance of the term 'parent,' it does not include a step-father or a step-mother.* We therefore find that the common pleas court was right in reversing the judgment of conviction in the municipal court." (Italics the writer's.)

Aside from parents, the beneficiaries under section 2934 includes only those bearing the relationship of wife or children to the man who served in the armed forces of the United States. The reciprocal rights and duties flowing from the relationships of parent and children and husband and wife are more numerous and more important than those incident to the relationship of step-parent and step-children. As stated above, in regard to the duty of one party to the relation to support the other, and the rights of one party in the property of the other, there are important distinctions between the relationships of parent and child and husband and wife on the one hand and step-parent and stepchild on the other. The soldier had the duty to support his wife and children and his parents, if indigent and aged. He had no such duty in relation to his stepmother. This is a strong indication that in defining the classes of beneficiaries the legislature intended to include only those to whom a soldier owed a legal duty of support.

Specifically answering your question, I am of the opinion that the stepmother of a soldier, sailor or marine is not eligible to relief under sections 2930 et seq. of the General Code, such person not being a member of any of the classes of beneficiaries in section 2934.

Respectfully,
JOHN W. BRICKER,
Attorney General.

591.

COUNTY SURVEYOR—ENTITLED TO ALLOWANCE FOR MEALS
WHEN TRAVELING ON OFFICIAL BUSINESS—TRAVELING EX-
PENSES DISCUSSED.

SYLLABUS:

By virtue of section 2786 of the General Code, county surveyors and deputy county surveyors are entitled to allowance for meals when traveling on official business.

COLUMBUS, OHIO, April 14, 1933.

HON. VERNON L. MARCHAL, *Prosecuting Attorney, Greenville, Ohio.*

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

"I wish you would render this office an opinion as to whether or not a surveyor or deputy surveyor is entitled to meals as a part of the expenses allowed under Sections 2786 of the General Code of Ohio.

I have examined the Attorney General Reports for the year 1912, Volume I, Page 145, Opinion No. 37, — also the Attorney General