

BLIND PENSIONS; Construction of appropriation act to  
Blind Commission; removal of headquarters  
to City of St. Louis.

August 27, 1941

Hon. Ira A. Jones, President  
Board of Managers  
State Eleemosynary Institutions  
Jefferson City, Missouri



Dear Mr. Jones:

We are in receipt of your request for an opinion  
wherein you state as follows:

"The recent Legislature made an appropriation to the Commission for the Blind of \$100,000.00. Of said sum \$50,000.00 was appropriated out of the general revenue and \$50,000.00 out of the blind pension fund. The latter \$50,000.00 was vetoed by the Governor.

"We would appreciate an opinion from your office as to whether we may use any of the above funds for the employment of investigators, doctors, a medical director and executive director, stenographers, clerks and a janitor.

"We would also like to know whether we may use any of the above funds to help defray the expenses of the Blind Commission when conducting its meetings.

"We would also like to know whether we would have authority to move the headquarters of the Blind Commission to the City of St. Louis."

We assume that the appropriation act to which you refer is Section 3 of Committee Substitute for House Bill 574. Said act provides as follows:

"Section 3. Commission for the Blind. There is hereby appropriated out of the State Treasury, chargeable to the General Revenue Fund; the sum of Fifty Thousand Dollars (\$50,000.00) for the use and benefit of the Commission for the Blind, to be expended under the direction of said Commission for the investigation of applications for blind pensions and for the investigation of the merits and status of those now on the pension rolls. No part of said appropriation shall be used by said Commission for any purpose not directly connected with or indispensable to the investigation of the applications for blind pensions and the status of present recipients of blind pensions.

"There is hereby appropriated out of the State Treasury, chargeable to the Blind Pension Fund; the sum of Fifty Thousand Dollars (\$50,000.00) for the use and benefit of the Commission for the Blind as follows:

"A. Personal Service:

Salaries of one office secretary, telephone operator, investigators, clerks, stenographers, one executive director, nurses, placement agent, sales agent, accountant, guides, teachers, superintendents, supervisors, temporary help, oculist fees for disallowed pensions, wages for blind trainees .....

"D. Operation:

General expenses consisting of communication, printing and binding, transportation of things, travel within and without the State, other general expense, hospital expenses incurred for eye operations, material and supplies consisting of clothing and dry goods, educational, scientific and recreational supplies, light, heat, power and water supplies, medical, surgical and hospital supplies, small tools, miscel-

laneous supplies, raw materials for industries, and work for prevention of blindness .....

Total out of Blind Pension Fund ..... \$50,000.00"

It is to be noted that the appropriation chargeable out of the Blind Pension Fund which you state was vetoed by the Governor specifically authorized, in addition to other personnel, the employment of clerks, stenographers, and an executive director.

The only moneys authorized to be paid out of the General Revenue Fund is that needed for (1) investigation of applications for blind pensions, and (2) investigation of the merits and status of those now on the pension rolls.

In making the investigation the Commission for the Blind is not given authority to expend funds that might be indirectly necessary or helpful in determining the facts, but only such funds as are "directly connected with or indispensable" to the investigation.

Webster's New International Dictionary, (2d Ed.), defines the term "indispensable", in part, as follows:

"Impossible to be dispensed with, or done without; absolutely necessary or requisite; as, indispensable clothing."

Certainly the services of a janitor are not necessary in investigating the above facts. The services of a medical director, an executive director, stenographers or clerks would certainly be helpful, but, in our judgment, are not of such character as to make their services indispensable.

The services of an investigator would seem to be essential in investigating applications for blind pensions. This leaves us the question of whether funds may be expended for the employment of doctors or oculists.

Section 9456, R. S. Missouri, 1939, provides, in part, as follows:

"It shall be the duty of the commission for the blind to make such regulations relative to the examination of applicants for pension, including the examination by the oculist and of all matters deemed necessary connected with the administration of this article. The examination and certificate of the oculist shall not exceed \$5.00 for each applicant, together with such expense as may necessarily be incurred in making examination where same is not made in his office; such fee and such expense shall be paid by the commission for the blind, but in the case the applicant, concerning whom the expense was so incurred shall subsequently receive a pension, the amount of such expense and fee for examination shall be deducted from the first pension received by applicant and upon proper voucher and requisition by the commission, the state auditor shall issue a warrant to the commission in reimbursement of same. The examining oculist shall state in his certificate (1) the amount of vision in each eye, (2) the cause of blindness, (3) the possibility of curing same by treatment or operation, (4) the physical and mental condition of applicant and such other matter as may be deemed by the commission of value in dealing with matters coming within its authority. \* \* \*"

By said section it is the duty of the Commission to make such regulations as may be necessary for examination of applicants by oculists, and of all matters necessary to the administration of the article relating to pensions for the deserving blind. Provision is further made by said section for the payment of not to exceed \$5.00 by the Commission for each applicant, and if a pension is granted the expense and fee of the examination is to be deducted from the first pension received by the applicant. No provision is made for the re-examination of pensioners or as to how said examination is to be paid for. The Commission, however, may enact such rules as it deems necessary providing for the re-examination of

pensioners and the payment of costs in connection with same. It is apparent that it was the intention of the Legislature that said examinations be paid for out of the funds appropriated for investigation of the status of the present recipients, and no attempt should, therefore, be made to charge the cost of the re-examination to the pensioners.

Webster's New International Dictionary, (2d Ed.), defines the term "status" thus:

"State or condition of a person."

It is obvious that only a doctor or oculist can determine the condition of the pensioner's vision. Consequently, their services would also be indispensable.

We are, therefore, of the opinion that Section 3 of Committee Substitute for House Bill 574 permits the Commission for the Blind to expend only such funds as are needed in the employment and pay of investigators and doctors or oculists.

Your second question is whether you may use any of the above funds to help defray the expenses of the Blind Commission when conducting its meetings.

In connection with same, you have submitted a supplemental letter, wherein you state as follows:

"May I call to your attention in the matter of the Blind Commission that all persons put on the blind pension roll and all persons taken off the blind pension roll must be done by an action of the Board of the Blind Commission. Therefore, it is my opinion that the board members can be paid out of the \$50,000.00 appropriation because this is a direct part of the investigation of the blind."

Section 9446, R. S. Missouri, 1939, provides as follows:

"The Missouri Commission for the Blind shall hereafter consist of the Members of the Board of Managers of the State Eleemosynary Institutions as now or hereafter provided for and constituted by Article 1, Chapter 51, Revised Statutes of 1939, and wherever in any law the Commission for the Blind is referred to it shall, after the taking effect of this act, be construed as referring to the members of the said Board of Managers of the State Eleemosynary Institutions, who are by this act designated and constituted the members of said Commission for the Blind. The officers of the Board of Managers of the State Eleemosynary Institutions shall be the officers of the Commission for the Blind as herein constituted."

Under the above section, the duties of the Commission for the Blind are to be performed by the Members of the Board of Managers of the State Eleemosynary Institutions, and whenever reference is made in the law to the Commission it is to be construed as referring to the Board.

Section 9450, R. S. Missouri, 1939, provides as follows:

"The officers and members of the Commission hereby created shall receive no salary or other compensation for their services as officers or members of the Commission for the Blind, but their traveling expenses and other necessary expense in the performance of their duties as officers and members of the Commission for the Blind may be allowed and paid them out of any funds that may be appropriated by the State for the use of said Commission."

Construing the above two sections together, the Board of Managers would not be entitled to any salary or compensa-

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tion for their services, but would be entitled to their traveling and other necessary expenses, to be paid out of any funds "that may be appropriated by the State for their use." The above appropriation act did provide for "travel within and without the State," and "other general expenses," but same was vetoed. We do not see how under any construction it can be said that the act of the Commission in adding to or striking from the rolls of pensioners is anything more than an administrative act. Said act of the Commission must be based upon evidence found by investigators, but, in our judgment, it cannot be said to be a part of the investigation within the meaning of the above appropriation act.

We are, therefore, of the opinion that the Commission for the Blind may not expend any of the funds appropriated by Section 3 of Committee Substitute for House Bill 574 to help defray the expenses of its meetings.

Your final question is whether you have authority to move the headquarters of the Blind Commission to the City of St. Louis.

Section 13028, R. S. Missouri, 1939, provides, in part, as follows:

" \* \* \* Provided, that the heads of all departments in charge of statewide activities shall have headquarters at Jefferson City, unless otherwise provided by general laws, or unless, in the opinion of the governor, or the elective officer appointing the official or employee, the public interest will best be served by having the headquarters at some other place, to be designated by the governor, or the elective officer appointing such official or employee: \* \* \*"

Under the above section, the heads of all departments in charge of statewide activities must have their headquarters in Jefferson City, Missouri, unless otherwise provided by law. We find no provision giving the Commission or the Eleemosynary Board authority to remove their headquarters from Jefferson City.

Hon. Ira A. Jones

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\* We are, therefore, of the opinion that you would have no authority to move the headquarters of the Blind Commission to the City of St. Louis unless the Governor would, in his discretion, so direct you.

Yours very truly

MAX WASSERMAN  
Assistant Attorney General

APPROVED:

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VANE C. THURLO  
(Acting) Attorney General

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