

BLIND COMMISSION: May require applicant to submit to operation or treatment.

March 11, 1942

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



Dear Mr. Jones:

Under date of February 20, 1942, you wrote this office requesting an opinion, as follows:

"Can the Blind Commission make an order that anyone who has a reasonable chance of having their sight restored by an operation must be operated on if there are available funds from private sources for the hospitalization of the patient and for the operation expenses?"

"We know there is such a law provided there is funds to take care of it by the State, but the thing that bothers me is that there is no State funds to take care of such cases.

"We understand the Lions Club of the State has raised such a fund. Now they want the Commission for the Blind to force people who are on the blind pension rolls to have such an operation."

In Section 9456, R. S. Mo. 1939, is the only provision in the statutes relating to operations for the purpose of relieving blindness. This section, after authorizing the Commission to make regulations concerning examination of applicants, fixing a maximum fee which may be paid for exam-

inations and providing for other details in connection with applicants, contains the following:

"* * * No person shall be entitled to the benefits of this article who shall refuse to submit to treatment or operation to effect a cure when recommended by the examining oculist and approved by the commission; but upon submission to such treatment or operation the pension of applicant, otherwise entitled thereto, shall be paid as in other cases: Provided further, that no applicant who is more than seventy-five years of age, shall be required to submit to an operation to restore his or her vision in order to come under the provisions of this article, but may voluntarily submit to operation."

Under an opinion previously furnished by this office, which opinion was written by Aubrey R. Hammett, Jr., it was ruled the above provision did not require applicants to pay for their own operations; that the intention of the lawmakers in enacting the above quoted portion of the statutes was to require persons to submit to operation when the operation was furnished.

We have been unable to find any adjudicated case construing the foregoing language from Section 9456, or similar language. The solution of the question involves the construction of the statutes under the recognized rules of statutory construction and in connection with any other statutes which may be pertinent to the question.

It is desired to call attention to the following portion of Section 655, Article 2, Chapter 4, R. S. Mo. 1939:

"The construction of all statutes of this state shall be by the following additional rules, unless such construction be plainly repugnant to the intent of the legislature, or of the context of the same statute:

First, words and phrases shall be taken in their plain or ordinary and usual sense, but technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import; * * * * *"

All of the words in the portion of Section 9456 quoted herein are words in common use and words having no technical meaning. From these words in common use we must determine the intention of the lawmakers in enacting the law.

In *City of St. Louis v. Pope*, 126 S. W. (2d) 1201, 1. c. 1210, the court said:

"In the *Senter Commission Company Case, City of St. Louis v. Senter Comm. Co.*, 337 Mo. 238, 85 S. W. 2d 21, this court laid down this rule (page 24), 'The primary rule of construction of statutes or ordinances is to ascertain and give effect to the lawmakers' intent * * * this should be done from the words used, if possible, considering the language honestly and faithfully to ascertain its plain and rational meaning and to promote its object and manifest purpose.' * * * * *"

Apparently the intention was to prevent the placing on the pension rolls and the keeping there of persons whose unfortunate condition might be remedied by treatment or operation, when treatment or operation were made available for such persons.

Persons recommended for treatment or operation cannot be required to pay for their own treatment or operation and there is no appropriation out of which payment could be made by the State. However, your letter states that the Lions Club of the State has funds which it has made available for this purpose.

At this point we wish to refer to the statutes pertaining to the Commission for the Blind, referring particularly to Sections 9447 and 9448, as follows:

"Sec. 9447. Duties of commission.
The duties of said commission shall be to prepare and maintain a complete register of the blind persons within this state and to collate information concerning their physical condition, cause of blindness and such additional information as may be useful to the commission in the performance of its other duties as herein enumerated, and to investigate and report to the general assembly from time to time the condition of the blind within this state, with its recommendations concerning the best method of relief for the blind; to adopt such measures as the commission may deem expedient for the prevention and cure of blindness; to establish and maintain at such places within this state as the commission may deem expedient shops and workrooms for the employment of blind persons capable of useful labor, and to provide superintendence and other assistance therefor and instruction therein; to compensate the persons so employed in the manner and to the extent that the commission shall deem proper; to provide such means for the sale of the products of the blind as the commission shall deem expedient; to act as a bureau of information for the purpose of securing employment for the blind of this state elsewhere than in the shops and workrooms of the commission, and to this end the commission is authorized to procure and furnish materials and tools and to furnish aid and assistance to blind persons engaged in home industries and to buy and sell the products of the

blind wherever and however produced within this state; to provide for the temporary cost of the food, raiment and shelter of deserving blind persons engaged in useful labor; to ameliorate the condition of the blind by such means consistent with the provisions of this article as the commission may deem expedient: Provided, however, that no part of the funds appropriated by the state shall be used for solely charitable purposes; the object and purpose of this article being to encourage capable blind persons in the pursuit of useful labor and to provide for the prevention and cure of blindness.

"Sec. 9448. Commission authorized to receive and expend donations and bequests. Said commission is authorized to receive and use for the purposes hereinbefore enumerated, or any of them, donations and bequests, and is authorized to expend such donations and bequests in such manner as it may deem proper within the limitations imposed by the donors thereof."

Summing up, the Commission for the Blind has the duty of adopting measures which it may deem expedient for the prevention of blindness; the Commission is further authorized to accept donations and it has the power to approve or reject the suggestion of the examining doctor in regard to an operation or treatment.

CONCLUSION

The conclusion follows, if the Commission wishes to accept the donation from the Lions Club of hospital expenses

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for persons needing treatment or operation, and further approves the recommendation of the examining doctor for treatment or operation, the Commission may require the applicant to submit to treatment or operation in accordance with Section 9456, R. S. Mo. 1939.

Respectfully submitted,

W. O. JACKSON
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APPROVED:

Roy McKittrick
Attorney-General

WOJ:CP