

STATE ELEEMOSYNARY INSTITUTIONS:

Laws 1933, page 191, abolishing old Missouri Commission for Blind and conferring duties on Board of Managers of Eleemosynary Institutions. Section 12-U of House Bill 127 appropriating funds out of Blind Pension Fund for prevention of blindness is unconstitutional.

2-9

February 7, 1934



Honorable W. Ed Jameson
President Board of Managers
State Eleemosynary Institutions
Jefferson City, Missouri

Dear Sir:

We are acknowledging receipt of your letter in which you inquire as follows:

"As President of the Board of Managers of State Eleemosynary Institutions I have to request your formal official opinion on the following questions of law.

In order that the Board of Managers may understand its powers and duties in the premises and that I as President of said Board may be fully advised of my responsibilities both to the Board as such and to the blind people of Missouri permit me to refer you first to the provisions of Section 8888 R. S. Mo. 1929, as follows:

'Sec. 8888. 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 46, Revised Statutes 1929, 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.'

That being true am I correct in assuming that the Missouri Commission for the Blind as formerly organized and existing is now wholly dissolved and without any power or authority save as the Board of Managers of State Eleemosynary Institutions might and does name certain party or parties to carry on the work laid out in the sections of the statutes of the State of Missouri beginning with said section 8888 and including any and all other and further statutes relating to the care of the blind, by which term is meant all persons partly or wholly without sight and who must be cared for in whole or in part by rules laid down by this Board which rules are to be enforced by an executive director which office is at present held by Mrs. Mary E. Rider of St. Louis through appointment by the Governor; that upon other duties devolving upon them as the successors of the Missouri Commission for the Blind is that of adopting such measures as the Commission (Board) may deem expedient for the prevention and cure of blindness, etc.

To that end there was introduced, passed and has now been signed by the Governor, hence a part of the statute law of the state, Section 12-U of Committee Substitute for House Bill No. 127, reading as follows:

'Section 12-U. 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 of the Board of Managers of state eleemosynary institutions for work among the inhabitants of Missouri looking to the prevention of blindness.'

The fact that this appropriation comes out of a fund already established to assist in the important work of caring for the blind leads

February 7, 1934

me to hope you may find it to be not only a duty one owes to his fellow-men but in this instance a direct command from the law-making branch of the state government that we at once proceed to formulate a program along lines yet to be fixed whereby we may provide the machinery necessary to control, maintain and operate methods corrective in their nature and permanent in their effect to overcome many of the now usual causes of blindness or impaired vision and work out a scheme of complete and lasting restoration of sight in the greatest degree that can be done among the people of Missouri who most need this service.

I will thank you to give this matter such early attention as you may find it possible so to do that I may have your decision to present to the full Board membership at its monthly meeting in St. Louis the second Monday in February, 1934."

I.

Chapter 50 of Article I of the Revised Statutes 1929 created the Commission for the Blind and defines the duties and powers of the Commission. Under Section 8888 as appears in the Revised Statutes 1929, the Missouri Commission for the Blind was composed of five members appointed by the Governor. The Legislature in 1933 in the Laws of 1933, page 191, repealed Section 8888 which provided for the Commission for the Blind as appointed by the Governor, and enacted a new section which you have quoted in your letter. Section 8888 above, as passed by the Legislature in 1933, bestows all the duties that heretofore had been bestowed upon the Commission for the Blind, upon the Board of Managers of the State Eleemosynary Institutions.

It is therefore our opinion that from and after July 24, 1933, at which time the Board of Managers of the State Eleemosynary Institutions became the Commission for the Blind, your Board acquired all of the powers and duties which heretofore

February 7, 1934

had been placed upon the Missouri Commission for the Blind, and from that date on that your Board is the Missouri Commission for the Blind.

II.

You call our attention to Section 12-U of House Bill 127, which is as follows:

"There is hereby appropriated out of the State Treasury chargeable to the Blind Pension Fund the sum of \$50,000 for the use of the Board of Managers of State Eleemosynary Institutions for work among the inhabitants of Missouri, looking to the prevention of blindness."

You inquire whether or not under the appropriation made by that section of the appropriation bill your Board now, as the present Commission of the Blind, may expend that money for the purpose of preventing blindness among the people of this state. We have on this date rendered an opinion to Mr. Forrest Smith, the State Auditor, in which we have held that Section 12-U of House Bill No. 127 is unconstitutional for the reason that it violates Section 47 of Article IV of the Constitution, in that it attempts to divert from the fund created by the constitution for the purpose of paying pensions to deserving blind persons, sums of money to be used for the purpose of preventing blindness, a copy of our opinion to Mr. Smith is inclosed for your information.

CONCLUSION.

It is therefore the opinion of this Department that since the effective date of the Laws of Missouri 1933, at page 191, which abolished the old Missouri Commission for the Blind, that all the duties and powers conferred upon that Board have been transferred to the Board of Managers of the State Eleemosynary Institutions. We are of the further opinion that Section 12-U of House Bill No. 127 which seeks to appropriate

Honorable W. Ed Jameson

-5-

February 7, 1934

\$50,000.00 out of the Blind Pension Fund created by the Constitution, is unconstitutional as being in conflict with Section 47 of Article IV of the Constitution as set out in the inclosed opinion to Mr. Smith.

Very truly yours,

FRANK W. HAYES
Assistant Attorney General,

APPROVED:

ROY McKITTRICK
Attorney General.

FWH:LC

Inclosure