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BLIND PERSONS--Maintained in public, private or endowed institutions.

May 9, 1933



Mrs. Mary E. Ryder  
Executive Director  
Mo. Commission for the Blind  
1722 Olive Street  
St. Louis, Missouri

Dear Mrs. Ryder:

This is to acknowledge your letter of April 26th, 1933,  
which is as follows:

"The question has been raised as to the right of pensioners to select their homes after they have been pensioned by us. One of our former pensioners, a Mr. Dunton of Iron County, was stricken from the roll on March 13, 1935, because he entered the Missouri Home for Aged Baptists, Ironton, Missouri.

It seems that this home has some endowments and the wording of the law is such that if pensioners are being maintained by institutions of this sort that they are not eligible for the pension. However, in such cases when pensioners select homes as the best place to live in on their limited incomes, the question arises does the nature of the home disqualify the pensioner.

We are now faced with another inquiry from another pensioner who wants to enter a home if he would not have to give up his pension. It is the Home of Forsaken Members of the Baptist Church at Ironton, Missouri. He wants to know if this would annul his pension. He said he is alone and very desolate and this home would offer to him comforts that he cannot manage for himself.

The management of the home has written for an opinion for they are not anxious to acquire another resident of this kind and have

him forfeit his pension, as they are in financial difficulties.

It is true that this question might raise a very vexatious problem for us in view of the fact that many who are not being supported in homes of this kind might see fit to seek the pension. These are questions that make it difficult to decide these points. I would appreciate your strict interpretation of the matter."

Section 8893 R. S. No. 1929, defines persons eligible to receive pensions, and said section has this provision:

"\* \* \*and provided further, that blind persons who are maintained in either public, private, or endowed institutions, or by private persons who would otherwise be entitled to a pension under this article, shall not be entitled to the benefits of this article; and provided further, that no blind person shall be entitled to the benefits of this article while confined in any jail or penitentiary under conviction of any offense etc.," \* \* \*

You will observe that the above section provides specifically that blind persons who are maintained in either public, private or endowed institutions should not be entitled to a pension.

We are of the opinion the words "who are maintained in", as used in the above provision, when read with the entire act, applies to a blind person living in a public, private or endowed institution, and his or her support or upkeep in same is gratuitous or paid by some one other than pensioner.

Webster's International Dictionary defines "maintain" to mean to hold or keep in any particular state or condition; to support; to sustain; to uphold; to keep up; to bear the expense of.

In the case of State ex rel. Palmer v. Thompson, State Auditor, 297 S. W. 62, the court used the following language after citing the provision supra from Section 8893.

"Under the 1923 act, the fact that the relator is and was being maintained in a publicly supported institution, automatically

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deprives her of the right to receive  
a pension. " \* \* "

Your attention is directed to the underscored words.

The relator in the above case was on the pension roll, and due to lack of funds appropriated, she did not receive her pension and was forced to enter an alms house. In reading the case, it will be seen that the court had in mind the fact as to who was paying for the support.

It is our opinion that the provision herein considered is simply to protect the State from giving support to pensioners already cared for by other persons or institutions. The pension is nothing more than a gratuity granted by the State for the actual support and maintenance of the deserving blind, hence, if such person is being provided for he or she would not be entitled to the pension. This intent is gathered from other provisions of the act, namely, if a blind person lives with a sighted husband or wife who has an income or is the recipient of six hundred dollars per annum; or if a person is confined in a penitentiary; or maintained in an institution.

Yours very truly,

JAMES L. HORNOSTEL,  
Assistant Attorney General.

APPROVED \_\_\_\_\_  
Attorney General.

JLN:MB