is separately assessed. This phrase cannot be too strictly construed, for the term "city or town lot" as used occasionally in the sections clearly includes parts of lots which are sometimes specifically mentioned. For example, in section 5712 we find the following:

> "The county auditor * * * shall * * * make a certificate to be known as a delinquent land tax certificate, for each tract of land, city or town lot or part of lot contained in such advertisement, * * * describing each tract of land, city or town lot the same as it is described on the tax duplicate. * * *"

It is clear that the second time the phrase occurs the words "or parts of lots" are to be read into it. So also where the term "tract of land" occurs the definition of "delinquent lands" set forth in section 5705 is applicable to it.

For the reasons above stated, then, the answer to the second part of the commission's first question is in the affirmative.

The commission's second question is to be answered just as if the so-called "oil lease" was a separate tract of land which had changed ownership. In other words, the delinquent taxes charged on the oil lease as an entry follow the oil lease, and the right to the minerals in the tract is liable to sale for delinquent taxes just as if it were a part of the surface described by metes and bounds. As between the purchaser and the former owner of the oil lease the obligation to pay the taxes may be made the subject of the contract of purchase; but as between the state and the parties the liability attaches to the land *in rem*, with the qualification above hinted at, namely, the whole tract cannot be sold but only so much thereof as is represented by the delinquent entry, viz., the right to the oil therein.

Respectfully,
JOHN G. PRICE,
Attorney-General.

2222.

OHIO BOARD OF ADMINISTRATION—WITHOUT AUTHORITY TO ADMIT NON-RESIDENT INSANE PERSONS INTO STATE HOSPITALS—EXCEPTION.

A non-resident insane person whose insanity did not occur during the time of his or her residence in Ohio, is not entitled to admission into the state hospitals for the insane. Sections 1817-1820 *and* 1920 *G. C.*

COLUMBUS, OHIO, July 1, 1921.

HON. E. C. SHAW, *President, Ohio Board of Administration, Columbus, Ohio.*

DEAR SIR:—Your letter of recent date relative to the authority of the Ohio Board of Administration to admit a certain non-resident insane person to one of the state hospitals for the insane, was duly received.

The facts, as I understand them, are as follows: The patient formerly lived at Bellefontaine, Ohio, but several years ago she moved to British Columbia where she became insane and was committed to a hospital for the insane in that jurisdiction. She has continuously resided in British Columbia since going there until her recent return to Ohio on a trial visit, as hereafter stated.

After having been confined in the hospital for about one year the authorities in charge of the hospital permitted her husband to take her out on a trial visit on condition that he bring her back to her former home, Bellefontaine. The period of the trial visit ended on June 7, 1921. She has never recovered from the insanity for which she was committed to the British Columbia hospital, and her condition is now such as will very shortly require that she be cared for in some hospital for the insane. Her husband does not wish to return with her to British Columbia, but desires and intends to remain in this state and make his home here.

The authority and jurisdiction of the Ohio Board of Administration to admit insane persons to our state hospitals for the insane are purely statutory, and the classes of persons entitled to admission thereto are also provided for by statute.

Sections 1817 to 1820, inclusive, G. C., if they may be considered alone and independently of other sections hereinafter referred to, apparently warrant the Ohio Board of Administration in admitting into the state hospitals for the insane persons not legal residents of the state, provided the peculiar circumstances of each particular case constitute, in the judgment of the Board of State Charities, a sufficient reason therefor, but subject, however, to the authority of the board to transport the non-resident to the place of his or her legal residence at the expense of the state.

Section 1817 G. C., after prescribing the general rule that a person not a legal resident of the state shall not be admitted to a benevolent institution, further provides, among other things, that the board of state charities, after careful investigation, may authorize the reception of such non-resident person, if the peculiar circumstances of the case constitute, in its judgment, a sufficient reason therefor. Section 1818 G. C. provides that when application is made to the probate judge for the commitment of a person to a hospital for the insane, the judge shall inquire, among other things, on what grounds the application is made when the insane person is not a legal resident of the state. It is next provided in section 1819 G. C. that if the judge finds that the person whose commitment is requested has not a legal residence in the state, and is of the opinion that such person should be committed, he shall notify without delay the Ohio Board of Administration, giving his reasons for requesting admission. Thereupon the board is empowered by section 1820 G. C. to investigate the legal residence of such person, and at any time after investigation is made, and before or after admission to the institution, to transport the insane person to his legal residence at the expense of the state.

It would seem under the foregoing statutes, considered alone and independently of other sections hereinafter mentioned, that while the board of administration may admit a non-resident insane person to a hospital for the insane, when the board of state charities authorizes the reception of such person on account of the peculiar circumstances of the particular case, it is not bound to do so. In other words, the authority of the board to admit in such cases is permissive only, and no mandatory duty is imposed upon it to receive such patients. And not only that, but the statute mentioned authorizes the board, either before or after the investigation referred to in section 1820, and before or after admission, to transport the patient to his or her known legal residence.

The sections referred to, viz., sections 1817, 1818, 1819 and 1820, G. C., read as follows:

> "Sec. 1817. A person not a legal resident of the state shall not be admitted to a benevolent institution, but, after investigation as here-

inafter provided, the board of state charities may authorize the reception of such person into an institution, if the legal residence cannot be ascertained or the peculiar circumstances of the case constitute, in their judgment, a sufficient reason therefor."

"Sec. 1818. When application to a judge of the probate court is made for the commitment of a person to a hospital for insane, a hospital for epileptics or the institution for the feeble minded, or whenever application to the superintendent of any other benevolent institution is made for the admission of a person thereto, such judge or superintendent shall require answers to the following questions:

1. Where was the person born?
2. When did he become a resident of this state?
3. When did he become a resident of the county?
4. If not a legal resident of state and county, on what ground is the application made?"

"Sec. 1819. If the judge or superintendent finds that the person whose commitment or admission is requested has not a legal residence in this state, or his legal residence is in doubt or unknown, and is of the opinion that such person should be committed or admitted to such institution, he shall notify without delay the Ohio board of administration, giving his reasons for requesting commitment or admission."

"Sec. 1820. The Ohio board of administration by a committee, its secretary, or such agent as it designates, shall investigate the legal residence of such person, and may send for persons and papers and administer oaths or affirmations in conducting such investigation. At any time after investigation is made, and before or after the admission, or commitment to such institution, a non-resident person whose legal residence has been established may be transported thereto at the expense of this state."

But the sections above referred to must, in my judgment, be read and construed in connection with section 1950 G. C., and when so considered the conclusion is justified that a non-resident insane person whose insanity did not occur during the time of his or her residence in this state, is not entitled to admission to our state hospitals for the insane, although the board of state charities may undertake to authorize his or her reception on account of the peculiar circumstances of the case. In other words, section 1950 G. C. imposes a limitation upon the permissive authority conferred upon the board by sections 1817 and 1820 G. C. to admit non-resident insane persons to the state hospitals for the insane. The section reads as follows:

"Sec. 1950. No person shall be admitted into any such hospital, who is not an inhabitant of the state, except by authority of the Ohio board of administration as provided by law. Within the meaning of this section, no person shall be considered an inhabitant who has not resided in the state one year next preceding the date of his or her application. No person is entitled to the benefits of the provisions herein except those whose insanity occurred during the time of his or her residence in the state. The board may direct the discharge of a person when they deem it expedient."

In this connection atention is directed to 1913 Opinions of Attorney-General, Vol. II, page 993, which was disposed of without any reference whatever being made to section 1950 G. C. After holding that a non-resident epileptic insane person, whose residence was known, should be transported thereto by the board under authority of section 1820 G. C., the opinion then went on to say that "if * * * his residence cannot be ascertained, then he should be disposed of under section 1817, General Code." The suggestion just mentioned probably was based upon the erroneous assumption that the board was authorized by law to admit a non-resident insane person, whose residence is unknown, to one of the state hospitals, irrespective of the time when and the place where his insanity occurred, whereas section 1950 G. C., as already pointed out, imposes the limitation that non-residents cannot be admitted unless their insanity occurred during the time of their residence in this state.

The history of the statutes involved clearly shows that present section 1950 G. C. imposes a limitation upon the authority of the board to admit patients under present sections 1817 et seq. G. C. in that these sections were all originally enacted as a part of Senate Bill No. 322, found in 99 O. L. 323. See section 700 (page 325 of 99 O. L.) where sections 632 (a) and 632 (b) (the forerunners of present sections 1817 and 1818) are expressly mentioned, and are cut down by the exception

> "no person is entitled to the benefits of the provisions except those whose insanity has occurred during the time such person has resided in the state."

While your letter does not state that the unfortunate woman therein referred to is a citizen of British Columbia, or an alien, nor does it disclose facts sufficient to enable this department to pass on that question, you are advised that if such be the fact, the situation is one which very properly may be called to the attention of the federal authorities for investigation under section 4289¼b U. S. Compiled Statutes, 1918, which section, among other things, provides that insane alien persons shall be excluded from admission into the United States, etc.

You are therefore advised that the Ohio Board of Administration has not been authorized by law to admit into the state hospitals for the insane non-resident persons whose insanity did not occur during the time of his or her residence in this state, and that the board is authorized to transport such insane person to his or her legal residence at the expense of the state.

The effect of the present statutory law on this subject in particular cases, such, for example, when non-resident insane persons, whose insanity did not occur in this state, are found in the state, and their legal residence cannot be established, rightly commands the attention of the general assembly. The condition of affairs that may be brought about by these laws is one that addresses itself to the body responsible for their enactment. All that this department can do is to declare the law as it finds it, and if it should appear in its application to work a hardship or apparent injustice in any particular case or cases, the remedy therefor can only be supplied by the legislative department of the state.

The statement of facts set forth in your letter discloses that the particular patient involved has not been finally discharged from the British Columbia hospital for the insane, but is here only on a trial visit. It may be that if your board will communicate with the proper authorities in British Columbia, satisfactory arrangements could be made for the return of the

patient to that jurisdiction without expense to the state in the event her husband is unable to provide or care for her here.

Respectfully,
JOHN G. PRICE,
Attorney-General.

2223.

BANKS AND BANKING—THE WORD "OFFICER" AS USED IN SECTION 5624-10 G. C. DOES NOT INCLUDE CASHIER OF AN INCORPORATED BANK, NOR CASHIER OR OWNER OF AN UNINCORPORATED BANK MENTIONED IN SECTION 5411 G. C.

The word "officer," as used in section 5624-10 G. C., does not include the cashier of an incorporated bank, nor the cashier, manager or owner of an unincorporated bank, mentioned in section 5411 G. C.

COLUMBUS, OHIO, July 1, 1921.

Tax Commission of Ohio, Columbus, Ohio.

GENTLEMEN:—Your letter of recent date was duly received, requesting an opinion on the following question:

> "Is a cashier of an incorporated bank, or the cashier, manager or owner of an unincorporated bank, who are required to make a return under section 5411 G. C., an officer required to perform a duty relating to the assessment of property for taxation as set forth in section 5624-10, whose negligence or error in making the return of such bank may properly be the basis of a remission of taxes by the Tax Commission as provided under the latter section?"

Section 5411, referred to in your letter, relates to the listing or returning for taxation of property and shares of capital stock of banks and bankers, whereas section 5624-10 G. C., also referred to in your letter, is one of the group of statutes relating to the assessment of property for taxation, and the levying and collection of taxes by the taxing authorities (sections 5579 to 5624, inclusive, G. C.)

Section 5411 G. C. reads as follows:

> "The cashier of each incorporated bank, and the cashier, manager or owner of each unincorporated bank, shall return to the auditor of the county in which such bank is located, between the first and second Mondays of May, annually, a report in duplicate under oath, exhibiting in detail, and under appropriate heads, the resources and liabilities of such bank at the close of business on the Wednesday next preceding the said second Monday, with a full statement of the names and residences of the stockholders therein, the number of shares held by each and the par value of each share, and of the amount of capital employed by unincorporated banks, not divided into shares, and the name, residence and proportional interest of each owner of such bank."

Upon receiving the return or report called for by the section just quoted, it is then provided by section 5412 G. C. that the county auditor shall fix the