

benevolent, and *other state institutions*, now elected by the general assembly, and of such other state institutions as may be hereafter created, shall be appointed by the governor, by and with the advice and consent of the senate; and upon all nominations made by the governor, the question shall be taken by yeas and nays, and entered upon the journals of the senate."

We would further quote Section 7939, of the General Code, with reference to the appointment of trustees of Miami University, which reads as follows:

"The government of Miami university shall be vested in twenty-seven trustees, to be appointed by the governor by and with the advice and consent of the senate. Nine trustees shall be appointed every third year, for a term of nine years, beginning on the first day of March in the year of their appointment. Vacancies in the board of trustees shall be filled for the unexpired term in the same manner. In addition to the trustees herein provided for, the director of education shall be a member of the board of trustees of Miami University, with power to speak but not to vote therein."

While I do not desire to hold that for all purposes, Miami University is a public institution or a public corporation, I must nevertheless follow the rule of statutory construction in construing the language of the legislature and endeavor to arrive at its intention in enacting such section and where in legislating for Miami University, it treats such university as a public institution, I must hold that while such university may not be a public institution for all purposes, it is a public institution within the purview of Section 1809-1, *supra*, and that when the Village of Oxford has contracted with a public institution, in compliance with the statutes concerning such contract, it is binding upon both the institution and the village.

Respectfully,
GILBERT BETTMAN,
Attorney General.

4032.

DENTAL HYGIENIST—MUST PRACTICE UNDER SUPERVISION OF
A LICENSED DENTIST—MANNER OF SUCH SUPERVISION
DISCUSSED.

SYLLABUS:

1. *A dental hygienist may legally practice such profession only in a dental office, public or private school, hospital, dispensary or public institution, and there only when such practice is under the supervision of a licensed dentist.*
2. *A dental hygienist may not legally practice such profession in his or her office several blocks distant from a dental office and not a part thereof.*

COLUMBUS, OHIO, February 5, 1932.

Ohio State Dental Board, Columbus, Ohio.

GENTLEMEN:—Your request for opinion is:

"Dr. Blank, a licensed and registered dentist, sends out notices to

the effect that he has a dental hygienist working in a location other than his own office. This hygienist cleans teeth, and refers you to a dentist for other dental services.

Section 1320-2, G. C. defines how and where a dental hygienist may practice. The question involved is what constitutes 'supervision of a licensed dentist'? In other words, can this hygienist practice in her office alone, and the dentist who does the supervision, be located in another office, several blocks away?"

Section 1320-2, of the General Code, reads as follows:

"A licensed dental hygienist may practice in a dental office, public or private school, hospital, dispensary or public institution, provided such service is rendered under the supervision of a licensed dentist of this state; and provided further, that no dentist shall employ more than one dental hygienist in the conducting of his private practice."

Your request involves a construction of this entire statute rather than merely the language "under the supervision of". The statute limits the location as to where a dental hygienist may practice to "in a dental office, public or private school, hospital, dispensary or public institution", in other words, by reason of the universal rule of statutory construction, "expressio unius est exclusio alterius", when a statute mentions or enumerates certain things or classes specifically and expressly, other things belonging to the same class are impliedly excluded. See *Weirick vs. Lumber Company*, 96 O. S., 386; *Cincinnati vs. Roettinger*, 105 O. S., 145.

The legislature, in specifying or enumerating the places in which a dental hygienist may practice, has precluded the right to practice in any other place.

The legislature has further limited the right to practice this profession by the language "under the supervision of". The language of the entire act shows that the legislature has used this language not in a technical sense, but in its ordinary sense. The ordinary meaning of "supervision" implies examination and inspection. The legislative intent is that the work of a dental hygienist is to be inspected by a dentist.

An examination of Section 1321-3, of the General Code, defines the practice of a dental hygienist, as follows:

"The practice of a dental hygienist shall be limited to the removal by mechanical means only of calcareous deposits, accretions and stains from the exposed surface of the teeth and directly beneath the normal free margin of the gums."

There is no specific provision in the act limiting the practice of this profession solely to the office of a dentist. The provisions of Section 1320-2, General Code, are expressly that such practice may be carried on either in a dental office, public or private school, hospital, dispensary or public institution.

Section 1321-2, General Code, lays down the qualifications as to education and experience of a dental hygienist and further provides that he or she shall successfully pass an examination conducted by the State Medical Board.

It is well to note that Section 1330, of the General Code, which is part of the same chapter, as the sections quoted above, in providing the manner in which dental students may perform dental acts, uses the language, "under the *direct* supervision" rather than "under the supervision of." It is not unreasonable to assume

that the legislature had in mind the provisions of the other sections of the same chapter of the Code, concerning the practice of dental surgery, when it enacted the amendments or supplements thereto, and that it had some purpose in using the language "under the supervision of", rather than "under the direct supervision of" and intended to give it a broader meaning.

While there are apparently no decisions of the courts construing the language of this statute, I do not believe the language will bear the construction that the work must be carried on in the same room in which the dentist conducts his dental practice. Since the ordinary meaning of "supervision" implies the act of inspection and supervision, the requirement of the statute is satisfied when the dentist inspects the work of the dental hygienist in such places as he or she is legally entitled to practice, and not elsewhere.

Specifically answering your inquiry, I am of the opinion that:

1. A dental hygienist may legally practice such profession *only* in a dental office, public or private school, hospital, dispensary or public institution, and there *only* when such practice is under the supervision of a licensed dentist.

2. A dental hygienist may not legally practice such profession in his or her office several blocks distant from a dental office and not a part thereof.

Respectfully,

GILBERT BETTMAN,

Attorney General.

4033.

ANNEXATION—COUNTY SANITARY SEWER DISTRICT TO MUNICIPALITY—CITY MAY PAY SUM AGREED UPON WITH COUNTY COMMISSIONERS FOR WATER LINES LYING WITHIN ANNEXED TERRITORY—FROM WHAT FUNDS SUCH MADE.

SYLLABUS:

1. *When territory is annexed to a municipality from a county sanitary district, and the city has entered into an agreement for the purchase of the water lines within such annexed territory the payment of the sums agreed upon between the county commissioners and the municipality is legal.*

2. *When territory is annexed to a city and the city, as a part of the annexation agreement, agrees to purchase the water lines existing therein at the time of the purchase, such purchase price may be paid either from a fund derived from the sale of bonds issued "for the purpose of procuring the real estate and rights of way for an improvement of the waterworks for supplying water to the city of Dayton and its inhabitants, and for extending, enlarging and improving said waterworks", or from the funds derived from the income of the waterworks and taxes assessed for such purpose.*

COLUMBUS, OHIO, February 6, 1932.

Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

GENTLEMEN:—I am in receipt of your communication enclosing letter from a state examiner, which letter reads in part as follows :

"The enclosures are quotations from the contracts of purchase of certain water systems from Montgomery County by the City of Dayton