

entitled to their per diem compensation for days required coming to and returning from the place where meetings of your board are held. The syllabus of this 1915 opinion is as follows:

"Members of the State Dental Board may be paid compensation only for the days on which such board is actually in session for the transaction of the business and performance of the official duties of such board."

An application of the doctrine of administrative practice is here indicated. It is said in *State, ex rel vs. Brown*, 121 O. S. 73, 75:

"It has been held in this state that 'administrative interpretation of a given law, while not conclusive, is, if long continued, to be reckoned with most seriously and is not to be disregarded and set aside unless judicial construction makes it imperative so to do.' *Industrial Commission vs. Brown*, 92 Ohio St., 309, 311, 110 N. E., 744, 745 (L. R. A., 1916B, 1277). See, also, 36 Cyc., 1140 and 25 Ruling Case Law 1043, and cases cited."

In specific answer to your question, it is my opinion that there is no authority for payment of compensation or expenses of members of the State Dental Board while individually engaged in making investigations or performing other services for the board as individuals in connection with the administration of the laws regulating the practice of dentistry.

Respectfully,

HERBERT S. DUFFY,
Attorney General.

2863.

DEPARTMENT OF PUBLIC WELFARE—CANNOT LICENSE INSTITUTION LOCATED IN FOREIGN STATE—JUVENILE COURT—NO AUTHORITY TO COMMIT CHILD TO ANY UNLICENSED INSTITUTION OR AGENCY—SECTION 1352-1, GENERAL CODE—IF CHILD SO COMMITTED, NO AUTHORITY FOR PAYMENT OF EXPENSE OF MAINTENANCE OUT OF COUNTY TREASURY.

SYLLABUS:

The Department of Public Welfare cannot license an institution which has its location outside of the state. Therefore, an agency or

association which has institutions both within and without the state can only be licensed as to their activities within the state. Since section 1352-1, General Code, provides that the juvenile court shall not commit a child to any unlicensed institution or agency, it follows that a commitment of a child to a licensed agency which in turn would send the child to an institution outside of the state, would be contrary to the legislative intent expressed in Section 1352-1, General Code, and therefore there is no authority for the payment out of the county treasury of the expenses of maintenance of a child so committed.

COLUMBUS, OHIO, August 24, 1938.

MRS. MARGARET M. ALLMAN, *Director, Department of Public Welfare, State Office Building, Columbus, Ohio.*

DEAR MADAM: I am in receipt of your recent communication which reads in part as follows:

"The Lucas County Juvenile Court has committed children to private social agencies in Toledo under Section 1639-22, paragraph 3, of the General Code. These agencies have at times determined that these children needed special training which could be secured in schools located outside of Ohio. These private agencies have billed county commissioners for this care and the commissioners have refused to make payment since the children are being cared for outside of the state.

Does the commitment of a child by the Juvenile Court to a private social agency, licensed by the State Department of Welfare, limit that agency to the placement of a child within the State of Ohio? Can such private social agency arrange for the care of children outside of the state and be reimbursed legally by the county commissioners?"

Sections 1352 and 1352-1, General Code, provide for a continual system of inspection and supervision by your department of all institutions licensed by you.

It is a well accepted canon of statutory construction that unless the contrary clearly appears, all statutes are to be construed so as to confine their operations within the boundaries of the state. Lewis' Sutherland on Statutory Construction, Second Edition, Vol. II, page 951. In my opinion, there is no question but that the legislature intended that the inspection provision of Section 1352 and the licensing provision of Section 1352-1 should only apply to institutions located within the boundaries of the State of Ohio.

It follows, therefore, that if said agencies operate both within and without the state, the license granted by the Department of Public Welfare only pertains to their operations within the state. Since Section 1352-1 provides that a child can only be committed to a licensed association or institution, it is obvious that the intention was that children should only be committed to institutions which are under the supervision and regulation of the Department of Public Welfare. A commitment by a juvenile court to a private agency, which agency in turn sends the child out of the state, would defeat this manifest legislative intent.

I also would like to point out that the portion of Section 1639-22, General Code, which provides that the court may arrange for an incorporated institution or agency to receive children, only relates to a situation where it is necessary to make temporary disposition of the child. You will notice that Section 1639-22 makes provision for the maintenance of a detention home where delinquent, dependent or neglected children may be retained "until final disposition." The next paragraph provides in part:

"The court may arrange for the boarding of *such* children *temporarily* in private homes, or to supplement *such* detention home, * * * or may arrange with any incorporated institution or agency, to receive for *temporary* care * * *." (Italics the writer's).

As I see it, this portion of the new Juvenile Court Code describes the jurisdiction of the court pending final disposition of the case. It was not, as I view it, contemplated that any arrangements would be made pursuant to Section 1639-22 by which the court would dispose of the child for any prolonged period of time. Final disposition of the cases are made by the court under Section 1639-30, General Code, and as I pointed out in my letter of July 15, I do not believe the court may commit a child to an institution located beyond the territorial limits of the State of Ohio and I do not believe that the same result could be accomplished indirectly, namely, by commitment to an agency which would in turn send the child to an institution out of the state.

Provision for the payment of expenses incurred under the new Juvenile Court Code is found in Section 1639-34, General Code, which section provides in part as follows:

"Any expense created by the court for the care, maintenance and education of dependent, neglected or delinquent children, * * * shall be paid from the county treasury upon specifically itemized vouchers, certified to by the judge of the court."

I do not believe that the court has the power to certify any bill which is not incurred in accordance with the provisions of the Juvenile Court Code or other laws of the State of Ohio and that the county may well refuse to pay such expense.

However, you state in your letter that the county commissioners refuse to make payment. Although I have my doubts whether or not they are the proper officers to take this action, since the result is the same I do not believe it necessary to comment on this matter.

Respectfully,

HERBERT S. DUFFY,
Attorney General.

2864.

APPROVAL—SUMMARY PROPOSED CONSTITUTIONAL
AMENDMENT, TO ARTICLE XII BY ADDING A NEW
SECTION 2 AND REPEALING EXISTENT SECTIONS 2
AND 8—IN RE: EXCISE TAX, REAL ESTATE, PERSONAL
PROPERTY, MOTOR VEHICLES, NET INCOMES.

COLUMBUS, OHIO, August 24, 1938.

MR. WALTER W. H. BAERTSCH, 1843 *Summit St., Toledo, Ohio.*

DEAR SIR: You have submitted for my examination a written petition signed by one hundred qualified electors of this state, containing a proposed constitutional amendment and a summary of the same under Section 4785-175, General Code. It is proposed to amend Article XII of the Constitution by adopting and adding thereto a new section to be known as Section 2, to read as follows:

“No sales tax, so-called, or excise tax shall be levied or collected upon the sale, purchase, use, rendition, processing, manufacture, consumption, distribution or exchange of personal property, goods, wares, merchandise or services, except taxes upon the sale, purchase, manufacture or distribution of gasoline or other liquid motor fuel, solid or powdered motor fuel, alcoholic, vinous or maltous beverages, materials used in the manufacture thereof and tobacco products. The licensing of the operation of motor vehicles, motor vehicle transportation by common carriers, and the licensing of drivers of motor vehicles may be provided by law, at rates not exceeding those now in effect.