

education in that community must function with the state board of education, or vocational education in that community fails.

The answer to your first question, in harmony with opinion No. 1247, issued by this department, and under authority of section 7620 G. C. is that a board of education can conduct vocational classes outside the limits of the city school district and can use its educational funds in the conduct of such classes.

Your second question is whether it is permissible for the city board of education to admit to special vocational classes, without the payment of a tuition fee, those students who reside outside the city school district. Pertinent sections of the law read as follows:

*Section 7680:* "Any person more than twenty-one years old may be permitted to attend evening school upon such terms and upon payment of such tuition as the board of education may prescribe." (90 v. 117)

*Section 7681:* "The schools of each district shall be free to all youth between six and twenty-one years of age, who are children, wards or apprentices of actual residents of the district, \* \* \*. But all youth of school age living apart from their parents or guardians and who work to support themselves by their own labor, shall be entitled to attend school free in the district in which they are employed."

*Section 7682:* "Each board of education may admit other persons upon such terms or upon the payment of such tuition as it prescribes."

Vocational classes are conducted by the board of education as part of its curriculum and persons other than those mentioned in section 7681 are governed by section 7682 G. C.; that is to say, the schools of the district, of whatever nature, are free to the youth of the district, between six and twenty-one years of age, while other persons may be admitted on such terms or payment of tuition as the board of education may prescribe.

The answer to your third question, as to whether it is permissible to charge the "usual" tuition fee to non-residents of the city school district, is in the affirmative, as the board of education prescribes tuition charges under section 7682 G. C., but the local board should govern its tuition charges to pupils on the amount expended by the board from its funds for that particular school activity.

Respectfully,  
JOHN G. PRICE,  
*Attorney-General.*

1617.

OHIO COMMISSION FOR BLIND—PERSON NOT INELIGIBLE TO ADMISSION TO COUNTY HOME BECAUSE HE OR SHE IS BLIND IMBECILE—AUTHORITY OF JUDGE OF JUVENILE COURT WHEN HE IS SATISFIED BLIND CHILD IS NOT BEING PROPERLY EDUCATED AT COUNTY HOME—NOT ILLEGAL FOR BLIND INMATES OF COUNTY HOMES TO PERFORM LABOR FOR OHIO COMMISSION FOR BLIND.

1. *A person is not ineligible to admission to the county home merely because he or she is a blind imbecile.*
2. *The judge of the juvenile court, when satisfied that a blind child is not*

*being properly educated at home, and will be benefited by attendance at the state school for the blind, and that such child is a suitable person to receive instructions therein, may, pursuant to section 7780 G. C., send or commit such child to the state school for the blind in the manner provided by law.*

3. *It is not illegal for blind inmates of county homes to perform labor for the Ohio Commission for the Blind at times when their services are not required by the superintendent or matron for the maintenance of the county home or the care of its inmates; nor is it illegal for the county commissioners to permit such inmates to retain for their own use insignificant sums of money received by said blind inmates from the Ohio Commission for the Blind as compensation for such labors.*

COLUMBUS, OHIO, October 15, 1920.

FRANCES S. REED, *Executive Secretary, Ohio Commission for the Blind, Columbus, Ohio.*

DEAR MADAM:—Your letter of October 2 is at hand, reading thus:

“At a recent meeting of the members of the commission for the blind, I was requested to ask for information on the following cases:

1. Is a blind imbecile whose home conditions are such that it is not safe for her to remain there, eligible to the county infirmary?

2. Does the law compelling parents to see that their children of school age attend school, affect blind children? There are a number of cases that have been brought to our attention, where there are children from ten to sixteen years of age who do not go to school, because their parents do not want to send their children away from home.

Is there a law prohibiting blind inmates being employed at the infirmary doing industrial work, for which they are paid by the commission?”

(1) Not being just certain of what you have in mind when you say of the person in question that

“it is not safe for her to remain there”

I prefer not to answer your questions categorically. It is thought, however, that a reference to the sections of the General Code hereinafter cited will answer your query satisfactorily.

Admission to the county infirmary, or “county home” as it is now called (108 O. L., Part I, p. 68), is a part of the system of poor relief provided for by the laws of Ohio. An important consideration in each case is the question of the residence qualifications, or “legal settlement,” of the person seeking admission to the infirmary. What these qualifications are may be seen from sections 3477 G. C. and 3479 G. C. (108 O. L., Part I, p. 272).

Your attention is also called to section 3476 G. C. (108 O. L. Part I, p. 272) and section 2544 G. C. (108 O. L., Part I, p. 269), reading thus:

“Sec. 3476. Subject to the conditions, provisions and limitations herein, the trustees of each township or the proper officers of each city therein, respectively, shall afford at the expense of such township or municipal corporation public support or relief to all persons therein who are in condition requiring it. It is the intent of this act that townships and cities shall furnish relief in their homes to all persons needing temporary or partial relief who are residents of the state, county and township or

city as described in sections 3477 and 3479. Relief to be granted by the county shall be given to those persons who do not have the necessary residence requirements, and to those who are permanently disabled or have become paupers and to such other persons whose peculiar condition is such they cannot be satisfactorily cared for except at the county infirmary or under county control. When a city is located within one or more townships, such temporary relief shall be given only by the proper municipal officers, and in such cases the jurisdiction of the township trustees shall be limited to persons who reside outside of such a city."

"Sec. 2544. In any county having an infirmary, when the trustees of a township or the proper officers of a corporation, after making the inquiry provided by law, are of the opinion that the person complained of is entitled to admission to the county infirmary, they shall forthwith transmit a statement of the facts to the superintendent of the infirmary, and if it appears that such person is legally settled in the township or has no legal settlement in this state, or that such settlement is unknown, and the superintendent of the infirmary is satisfied that such person should become a county charge he shall account such person as a county charge and shall receive and provide for him in such institution forthwith or as soon as his physical condition will so permit. The county shall not be liable for any relief furnished, or expenses incurred by the township trustees."

In connection with your statement as to the blind imbecile that "it is not safe for her to remain" in her present home, that part of section 3476 G. C. is very significant which says:

"Relief to be granted by the county shall be given \* \* \* to such other persons whose peculiar condition is such they cannot be satisfactorily cared for except at the county infirmary or under county control."

Section 2541 G. C. should also be considered. This section provides:

"No insane or epileptic person shall be received or kept at any county infirmary in this state."

Said section in practically its present form was enacted in 94 O. L. 166. See also 93 O. L. 274. On neither occasion did the legislature attempt a definition of the word "insane."

In other places in the General Code, however, we do find legislative definitions of the words "insane," "lunatic," "idiot," and "imbecile."

Section 1983 G. C., the last statute in Chapter 7, Division II, Title V, Part First of the General Code, says:

"The terms 'insane' and 'lunatic,' as used in this chapter, include every species of insanity or mental derangement; the term 'idiot' is restricted to a person foolish from birth, or supposed to be naturally without a mind; \* \* \*"

Section 10988 G. C., the first of a number of sections appearing under the sub-title of "Lunatics, idiots and imbeciles," says:

"The word 'imbecile,' as used in this chapter means a person who, not born idiotic, has become so."

In view of the distinctions which the legislature, as shown by the sections just referred to, has seen fit to make between insanity, idiocy and imbecility, it cannot, we think, be said that the prohibition contained in section 2541 G. C. extends to any persons but those named therein, to-wit *insane* and *epileptic* persons. Said section cannot be construed to include *imbeciles*.

No other section touching the question has come to our attention, and the conclusion is therefore reached that a person is not ineligible to admission to the county home merely because he or she is a blind imbecile.

(2) Your next question, in effect, is whether the compulsory education statutes extend to blind children. These statutes, sections 7762 G. C. et seq., appear in Chapter 4, Title V, Part Second of the General Code, under the heading "Compulsory Education." Your attention is called particularly to section 7778 G. C., which says:

"The provisions of this chapter shall apply to children entitled under existing statutes, to attend school at the institution for the deaf and dumb or the institution for the blind, so far as they are properly enforceable."

Just how far the provisions of Chapter 4 are applicable, in view of the qualification that the same apply

"so far as they are properly enforceable,"

is not easy to determine. It is thought, however, that the problem you have in mind—that of blind children whose education is being neglected—is capable of solution by means of the procedure set forth in sections 7779, 7780 and 7781 of the General Code. Said sections read thus:

"Sec. 7779. Annually between the first day of July and the first day of August, truant officers must report to the probate judge of their respective counties the names, ages and residences of all such children between the ages of eight and eighteen years, with the names and postoffice address of their parents, guardians or the persons in charge of them; also a statement whether the parents, guardians or persons in charge of each child is able to educate and is educating the child, or whether the interests of the child will be promoted by sending it to one of the state institutions mentioned."

"Sec. 7780. Upon information thus or otherwise obtained, the probate judge may fix a time when he will hear the question whether any such child shall be required to be sent for instruction to one of the state institutions mentioned, and thereupon issue a warrant to the proper truant officer or some other suitable person, to bring the child before him, at his office at the time fixed for the hearing. He also shall issue an order on the parents, guardian or person in charge of the child to appear before him at such hearing, a copy of which order, in writing, must be served personally on the proper person by the truant officer or other person ordered to bring the child before the judge. If, on the hearing, the probate judge is satisfied that the child is not being properly educated at home, and will be benefited by attendance at one of the state institutions mentioned, and is a suitable person to receive instruction therein, he may send or commit such child thereto."

"Sec. 7781. The costs of such hearing, and the transportation of the child to such institution shall be paid by the county after the manner pro-

vided, when a child is committed to a state reformatory. Nothing in the next two preceding sections shall require the trustees of either of the state institutions mentioned, to receive any child not a suitable subject to be received and instructed therein, under the laws, rules and regulations governing such institutions."

Your second question is therefore answered by saying that the judge of the juvenile court, when satisfied that a blind child is not being properly educated at home, and will be benefited by attendance at the state school for the blind, and that such child is a suitable person to receive instructions therein, may, pursuant to section 7780 G. C., send or commit such child to the state school for the blind in the manner provided by law.

(3) We understand that the situation giving rise to your third question is this: From time to time the Ohio commission for the blind is accustomed to send materials for basket making and other things to blind persons who are inmates of county infirmaries. These inmates work up the materials into finished articles, which are sent back to the commission and sold, payment being made to the makers for their labors. So far as the Ohio commission for the blind is concerned, authority for this practice is found in sections 1365 and 1366 G. C., reading thus:

"Sec. 1365. The commission for the blind may ameliorate the condition of the aged or helpless blind by promoting visits to them in their homes for the purpose of instruction and by such other lawful methods as the commission deems expedient."

"Sec. 1366. The commission for the blind may establish, equip and maintain schools for industrial training and workshops for the employment of suitable blind persons, pay the employes suitable wages and devise means for the sale and distribution of the products thereof. The commission may also provide or pay for during their training the temporary lodging and support of pupils or workmen received at any industrial schools or workshops established by it."

No law has been found which prohibits blind inmates of a county infirmary from doing work for which they are paid by the Ohio commission for the blind, unless it can be said that section 2526 G. C. (108 O. L., Part I, p. 268) contains such prohibition. Said section, in part, says:

"The superintendent and matron of the infirmary shall require all persons received therein to perform such reasonable and moderate labor, *without compensation*, as is suited to their age and bodily strength. \* \* \*"

The words underscored are new in the law, not appearing in section 2526 G. C. as it stood just before the amendment found in 108 O. L., Part I, p. 268.

What reasonable and moderate labor is it that the inmates may be required to perform without compensation? Is it all labor, or only labor which pertains to the maintenance of the county home and to the care of its inhabitants? Clearly the latter. Otherwise, the conclusion would follow that the superintendent and matron, even where there was no work incident to the maintenance of the county home or to the care of its inhabitants to be performed, might bring in work from the outside, compel the inmates to perform the same without compensation, and pay the moneys resulting therefrom into the county treasury. The mere statement of the proposition and the slightest attention to the possibilities for evil connected therewith, sufficiently suggest that the legislature intended no such thing.

It being established that the only effect of section 2526 G. C. is to require gratuitous labor from the infirmary inmates in respect of the maintenance of the institution and the care of its inhabitants, it is believed that there is nothing to prevent such inmates from working for compensation at times when they would otherwise be idle.

Whether the county commissioners may not take possession of the moneys earned by such inmates, is another question. The county home is, of course, an institution supported by taxpayers. It is not intended that persons should resort thereto, be maintained without expense to themselves, and meanwhile enrich themselves. Section 2548 G. C. (108 O. L., Part I, p. 270) provides that when a person becomes a county charge and owns property, real or personal, the county commissioners shall seek to secure possession of such property and apply the proceeds therefrom to the maintenance of the owner while he remains a county charge.

It may well be doubted, however, whether said section is applicable where the property of the inmate is *insignificant* in value. It is hard to think that the legislature ever intended that the county commissioners should take from an unfortunate inmate of the infirmary every cent of money or every item of property he or she possessed. Under such a harsh rule, the inmate could not buy his own postage stamps, or many other articles highly desirable for personal comfort but of small intrinsic value. Rather does it seem probable that the intention was to vest a measure of discretion with the county commissioners, and to leave it with that body to determine when the inmate's property was and was not sufficient in value to justify the institution of proceedings under section 2548 G. C.

For the reasons just given, it is concluded that it is not illegal for blind inmates of county homes to perform labor for the Ohio commission for the blind at times when their services are not required by the superintendent or the matron for the maintenance of the county home or the care of its inmates; nor is it illegal for the county commissioners to permit such inmates to retain for their own use insignificant sums of money received by said blind inmates from the Ohio commission for the blind as compensation for such labors.

Respectfully,  
 JOHN G. PRICE,  
*Attorney-General.*

1618.

PROBATE COURT—ADOPTION OF MINOR CHILD—NOT REQUIRED  
 THAT CHILD OR ITS NATURAL PARENTS BE CITIZENS OF  
 UNITED STATES—RIGHT TO INHERIT PROPERTY BY ALIENS  
 AND CITIZENS OF UNITED STATES UNDER OHIO LAWS.

1. *The statutes of Ohio do not require, as a condition of the adoption of a minor child, either that said child be a citizen of the United States, or that its natural parents, or either of them, be citizens.*

2. *By reason of section 8589 G. C., aliens stand on the same footing with citizens of the United States, as far as the right under the laws of Ohio to inherit property is concerned.*

COLUMBUS, OHIO, October 15, 1920.

HON. H. H. SHIRER, *Secretary, Board of State Charities, Columbus, Ohio.*

DEAR SIR:—Acknowledgment is made of your letter reading thus: