give bond for the faithful performance of his duties. Those duties the court, at page 396, described thus:

> "By those sections, in all prosecutions for violation of the fish and game laws, he is clothed with authority greater than that of a constable or sheriff. He is required to file an affidavit when he believes there has been a violation of the fish and game laws, charging the supposed violator with the offense. He serves the warrant himself, and arrests and brings the accused before the court. He serves subpoenas on witnesses and summons the jurors, and if the venire be exhausted without obtaining the required number to fill the panel, he may summon any of the bystanders to act as jurors. He takes charge of the jury when they retire for deliberation. In case of a conviction and sentence to jail, he commits the prisoner to the jail of the county the same as the sheriff of the county. By sections 6966-2 and 6968 he is a 'fish and game warden.'"

The court further said:

> "From this enumeration of the powers and duties of a county fish and game warden, it is clear under the authorities quoted that he is a public officer, and, in his jurisdiction, he is clothed with the right and corresponding duty to execute a public trust in the supposed interest of the people."

In the case just quoted from, the statute was held unconstitutional as being an attempt to create a county office and to provide for filling the same by appointment, contra to sections 1 and 2 of Article X of the constitution of Ohio.

In view of the foregoing, I am of the opinion that the position of fish and game protector, provided for by section 1439 G. C., is an "office" within the meaning of section 4 of Article XV of the constitution of Ohio. It therefore follows that the incumbent of that office must have all the qualifications of an elector, one of which is that he must be of the age of twenty-one years. Your question is therefore answered in the negative.

Respectfully,
JOHN G. PRICE,
Attorney-General.

1595.

BOARD OF STATE CHARITIES.—DISCUSSION OF TEMPORARY AND PERMANENT CARE AND CUSTODY OF DEPENDENT GIRLS COMMITTED BY JUVENILE COURT TO SAID BOARD.

1. *Dependent girls committed by the juvenile court to the temporary care and custody of the board of state charities, remain under the legal control and guardianship of the court until they attain the age of twenty-one years, should such commitment for temporary care endure that length of time.*

2. *Dependent girls committed by the juvenile court to the permanent care and custody of the board of state charities come under the sole and exclusive guardianship of such board, and such board shall, in the absence of any proceedings*

meanwhile for the legal adoption of such children, retain their guardianship until they arrive at the age of eighteen years.

COLUMBUS, OHIO, September 27, 1920.

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

DEAR SIR:—In a letter to this office you say:

> "We are somewhat in doubt as to whether dependent girls, committed to the board of state charities by the juvenile court, remain under legal control and guardianship until eighteen or twenty-one years of age."

The following sections of the General Code are pertinent to your inquiry: Section 1643 G. C, (108 O. L., Part I, p. 260):

> "When a child under the age of eighteen years comes into the custody of the court under the provisions of this chapter, such child shall continue for all necessary purposes of discipline and protection, a ward of the court, until he or she attain the age of twenty-one years. The power of the court over such child shall continue until the child attains such age. Provided, in case such child is committed to the *permanent* care and guardianship of the * * * board of state charities * * * with permission and power to place such child in a foster home, with the probability of adoption, *such jurisdiction shall cease at the time of commitment* * *."

Sec. 1653 G. C. "When a minor under the age of eighteen years, or any ward of the court under this chapter is found to be dependent or neglected, the judge may make an order committing such child to the care of the children's home * * *; or he may commit such child to the *board of state charities* * * *."

Section 1672 G. C. (108 O. L., Part I, p. 260):

> "If the court awards a child to the care of an institution, association, or a state board in accordance with the provisions of this and other chapters, the judge shall in the award or commitment designate whether it is for temporary or permanent care or custody. If for temporary care, the award or commitment shall not be for more than twelve months, and before the expiration of such period the court shall make other disposition of the matter, or recommit the child in the same manner. During such period of temporary care the institution, association or state board to which such child is committed shall not place it in a permanent foster home, but shall keep it in readiness for return to parents or guardian whenever the court shall so direct. At any time during such temporary custody the institution or board to whom such child is committed, may, whenever there is an opportunity to place such child in a foster home by adoption, request the court to determine whether such commitment should be modified to include permanent care and custody. Whenever a child is committed to the permanent care of an institution, association or a state board, it shall ipso facto come under the sole and exclusive guardianship of such institution, association or state board, whereupon the jurisdiction of the court shall cease and determine, except that such institution, association or board, to which such child is permanently committed may petition said court to make other disposition of such child because of physical, mental or moral defects. Such institution, associa-

tion or state board may place such child in a foster family home and shall be made a party to any proceedings for the legal adoption of the child. Assent on the part of such institution, association or state board shall be sufficient to authorize the judge to enter the proper order or decree of adoption. * * *."

Sec. 8023 G. C. "All male persons of the age of twenty-one years and upward, and all female persons of the age of eighteen years and upward, who are under no legal disability, shall be capable of contracting respecting goods, chattels, lands, tenements and any other matter or thing which may be the legitimate subject of a contract, and, to all intents and purposes be of full age."

It is clear from a reading of sections 1643 G. C. and 1672 G. C., quoted supra, that dependent girls committed by the juvenile court to the board of state charities are of two classes: those committed for *temporary* care and custody, and those committed for *permanent* care and custody. As to the first class, the jurisdiction of the juvenile court is continuing, until the minor, whether male or female, attains the age of twenty-one years. It is barely possible that a minor might be in the custody of the board of state charities under temporary commitment until said minor became twenty-one years of age; for while the award or commitment for temporary care may not be for a period longer than twelve months, section 1672 G. C. provides for *recommitals* "in the same manner." At any rate, it is evident that so long as the board of state charities has custody of a girl by virtue of a temporary commitment of the juvenile court, such girl may be held by the board after she has arrived at her legal majority and until she becomes twenty-one years of age. It is probably incorrect, however, to speak of the board's control over such children as one of *"guardianship,"* as section 1672 G. C. uses that term with reference to children committed to it for *permanent* care and custody.

As to the second class of dependent minors, to-wit those coming into the *permanent* care and custody of the board of state charities, the jurisdiction of the juvenile court ceases at the time of such commitment, (although it may afterwards be asserted by the court when the board of state charities, finding it difficult to make placement because of the child's physical, mental or moral defects, petitions the court to make "other disposition of such child"). Following commitment for permanent care, the child, according to section 1672 G. C., comes under the sole and exclusive guardianship of the board. For how long? Section 1672 G. C. does not expressly say, and its failure so to do is undoubtedly what gives rise to your question.

Such a question could not arise as to dependent children committed by the juvenile court to the permanent care of a county or district children's home, for section 3093 G. C. (108 O. L., Part I, p. 261) in part provides:

"All wards of a county or district children's home, or of any other accredited institution or agency caring for dependent children who by reason of abandonment, neglect or dependence have been committed by the juvenile court to the permanent care of such home, or who have been by the parent or guardian voluntarily surrendered to such an institution or agency, shall be under the sole and exclusive guardianship and control of the trustees *until they become of lawful age.*"

Attention is now called to section 1352-3 G. C. (108 O. L., Part II, p. 1158):

"The board of state charities shall, when able to do so, receive as its wards such dependent or neglected minors as may be committed to it by

the juvenile court. County, district, or semi-public children's homes or any institution entitled to receive children from the juvenile court or the board of administration may, with the consent of the board, transfer to it the guardianship of minor wards of such institutions or board. If such children have been committed to such institutions or to the board of administration by the juvenile court that court must first consent to such transfer. The board shall thereupon ipso facto become vested with the sole and exclusive guardianship of such child or children. The board shall, by its visitors, seek out suitable permanent homes in private families for such wards; in each case making in advance careful investigation of the character and fitness of such home for the purpose. Such children may then be placed in such investigated homes upon trial, or upon such contract as the board may deem to be for the best interests of the child, or proceedings may be had, as provided by law, for the adoption of the child by suitable persons. The board shall retain the guardianship of a child so placed upon trial or contract during its minority, and may at any time, if it deem it for the best interest of the child, cancel such contract and remove the child from such home. * * *"

Said section is one of several in the General Code relating to the important function of your board known as child placement. It is a well known fact, with which it must be presumed the legislature was familiar, that the board of state charities is not equipped to give dependent minors *institutional care.* While it has facilities for the temporary reception and custody of children committed to it, the expectation of course is that the board will, as section 1352-3 G. C. says,

"* * * by its visitors seek out suitable permanent homes in private families for such wards."

Two methods of placement are authorized by section 1352-3 G. C.—placement *upon trial* and placement *upon contract.* As to *female* children so placed, it is clear that the guardianship of the board of state charities terminates when such children reach eighteen years of age, for section 1352-3 G. C. contains the plain provision that

"the board shall retain the guardianship of a child so placed upon trial or contract *during its minority* * * *."

The nice question, however, is that which relates to (a) a female dependent who has been committed to the board of state charities for *permanent* care and custody and who, upon arrival at the age of eighteen years, is still in the custody of the board, *not yet having been placed upon trial or contract;* and likewise that which relates to (b) a female who has been committed to the board for permanent care and custody, who has been placed upon a contract, which contract has, however, prior to the time the dependent girl becomes eighteen years of age, been canceled, said girl having been removed by the board from such foster home.

Technically speaking, girls who are in the situation described under the headings "a" and "b" of the preceding paragraph are not children

* * * so placed upon trial or contract"

as to whom the board shall retain guardianship during minority.

On the other hand, guardianship of one's person is a matter of great importance, involving as it does the personal liberty of the individual. Before im-

posing a guardian upon an adult, one who has attained majority, clear and unmistakable legal authority therefor should appear. Aside from the technical consideration that the above quoted provision found in section 1352-3 G. C. does not, strictly speaking, include all possible classes of dependent children who have been committed to the permanent care and custody of the board of state charities, no argument occurs to us to justify the continuation of the guardianship by the board of state charities of female dependents past the age of eighteen years. Furthermore, a reference to other sections of the code, providing for the care and custody of children, suggests that the legislature has been careful to make express reference to the age of twenty-one years whenever it has been intended that the state's care and custody of children should continue that long. See sections 1643 G. C., 2112 G. C., 2113 G. C., 2116 G. C.

Accordingly, you are advised it is the opinion of the Attorney General that,

(1) Dependent girls committed by the juvenile court to the *temporary* care and custody of the board of state charities, remain under the legal control and guardianship of the court until they attain the age of twenty-one years, should such commitment for temporary care endure that length of time.

(2) Dependent girls committed by the juvenile court to the *permanent* care and custody of the board of state charities come under the sole and exclusive guardianship of such board, and such board shall, in the absence of any proceedings meanwhile for the legal adoption of such children, retain their guardianship until they arrive at the age of eighteen years.

Respectfully,
JOHN G. PRICE,
Attorney-General.

1596.

MUTUAL PROTECTIVE ASSOCIATIONS—NOT EMPOWERED TO INSURE PROPERTY GENERALLY—MAY INSURE PROPERTY AUTHORIZED—ARTICLES OF INCORPORATION MUST PROVIDE FOR ENFORCEMENT OF ANY CONTRACT ENTERED INTO WHEREBY MEMBERS AGREE TO BE ASSESSED SPECIFICALLY FOR INCIDENTAL PURPOSES AND FOR PAYMENT OF LOSSES WHICH OCCUR TO MEMBERS.

1. *Mutual protective associations incorporated under authority of sections* 9593 *et seq. G. C. are not empowered to insure property generally, but may only insure the property therein authorized.*

2. *The articles of incorporation of a mutual protective association, or an amendment to the object or purpose clause of such articles, must provide for the enforcement of any contract entered into whereby the members agree to be assessed specifically for incidental purposes and for the payment of losses which occur to members, as required by section* 9594 *G. C.*

COLUMBUS, OHIO, September 28, 1920.

HON. HARVEY C. SMITH, *Secretary of State, Columbus, Ohio.*

DEAR SIR:—The certificate of amendment to the articles of incorporation of The Farmer Mutual Fire Protection Association of Defiance county, which you submitted to this department for approval, is herewith returned to you unapproved, for the reasons hereinafter stated.