

that a requirement for "legal settlement" such as contained in Section 3477, General Code, would, if enacted in the Old Age Pension Law prevent a relatively large percentage of otherwise eligible and needy aged persons from acquiring a "legal settlement" in the county in which they are presently residing for the reason that a person applying for aid under the Old Age Pension Law is not likely to have supported himself or herself for twelve consecutive months, without relief.

Assuming for the sake of argument that the "legal settlement" requirement as contained in Section 3477, General Code, applied to the Old Age Pension Law, in the event that an applicant is unable to acquire a "legal settlement" in the county wherein he or she presently resides, because of inability to support himself or herself for twelve consecutive months, without relief, it would then be necessary to determine the county in which the applicant last had a "legal settlement" and make application for an Old Age Pension to the Board of Aid for the Aged in that county. Section 1359-14, General Code provides that applications for aid under the Old Age Pension Law shall be made yearly to the County Boards, and that each shall cause all applications to be investigated. I do not believe that it was the intent of the framers of the Old Age Pension Law, or of the people of the state who voted for its adoption, that a burdensome procedure such as that indicated above, should be inflicted upon those applying for aid under the Old Age Pension Law or upon officials charged with the administration of that law.

In my opinion the requirement that an applicant first reside for one year in the county in which he makes application was intended as a means of identification and as a method of depriving transients of the privilege of participating in the benefits of the law. Obviously for administrative purposes, the requirement of one year's residence within a county would greatly facilitate the work of the Board of Aid for the Aged in the respective counties.

I am inclined to the view that the residence requirement as contained in Section 1359-2d, General Code, was placed in the Old Age Pension Law after due consideration of problems such as those discussed herein; furthermore that it was intended to define and limit the meaning of the word "resident" to the phrase expressly contained in that section.

Specifically answering your inquiry it is my opinion, therefore, that the statutory requirements of legal settlement as contained in the poor relief laws are not applicable to the Old Age Pension Law and that under the facts stated in your letter the persons mentioned therein should make application for an old age pension to the Bureau of Aid for the Aged in Montgomery County.

Respectfully,

JOHN W. BRICKER,
Attorney General.

2715.

LICENSE—PUBLIC SCHOOLS MAY BE LICENSED BY STATE BOARD
OF COSMETOLOGY WHEN—EXCEPT FROM LICENSE FEE—IN-
STRUCTORS MUST BE LICENSED.

SYLLABUS:

1. *Public junior high schools, regular high schools and public trade schools may be licensed by the State Board of Cosmetology, if they meet the requirements*

laid down in Section 1082-17, General Code. To be approved schools of cosmetology, the instructors in such schools teaching cosmetical subjects must be licensed by the State Board of Cosmetology.

2. *Public high schools, public junior high schools, and public trade schools are not required to pay the one hundred dollars (\$100.00) license fee, provided in Section 1082-16, General Code, in order to be approved by the State Board of Cosmetology.*

COLUMBUS, OHIO, May 23, 1934.

HON. FRANCES DIAL, *Chairman, State Board of Cosmetology, Columbus, Ohio.*

DEAR MADAM:—This is to acknowledge receipt of your communication requesting my opinion upon the following matters:

“We have had inquiries from various public school officials as to whether or not, since the new Cosmetology Law was passed (House Bill No. 318), they may teach cosmetology in regular public junior high schools, regular high schools and public trade schools.

Assuming for the purposes of this inquiry that they do have power to teach such subjects, would their students upon satisfactory passing of examinations in such schools, be eligible to take the State Board Cosmetology examination without having taken the necessary required hours of study of cosmetology in a regular bona fide school of cosmetology?

Assuming that under public laws they have the power to teach cosmetology, could such schools under the state cosmetology law (House Bill No. 318) be required to be licensed by our State Board, and must they meet our requirements for a bona fide school of cosmetology? If so, must they pay the required \$100 tax annually, and must their public school instructors in such subjects be licensed by the State Board?”

I am assuming for the purpose of this opinion that such schools under the regular school laws have the power to teach such subjects.

Your question resolves itself into the consideration of whether or not the public schools mentioned in your inquiry may qualify as bona fide schools of cosmetology under the Cosmetology Act (House Bill 318, of the regular session of the 90th General Assembly), codified as Sections 1082-1 to 1082-23 inclusive, of the Ohio General Code. I shall first point out all of the relevant sections of the recently enacted Cosmetology Act necessary for a determination of your questions:

“Sec. 1082-1.

* * *

(f) The word ‘student’ is defined as any person who is engaged in learning or acquiring knowledge of the occupation of a cosmetician in a school of cosmetology as hereinafter provided for in this act.”

* * *

“Sec. 1082-3.

* * *

It shall be the duty of the board to adopt rules for carrying out the provisions of this act, for conducting examination of applicants for

license, and governing the recognition of, and the credits to be given to, the study of cosmetology, or any branch thereof, *in a school of cosmetology*, licensed under the laws of this or another state or territory of the United States or the District of Columbia, and to adopt such sanitary rules as may be authorized by the state department of health with particular reference to the precautions to be employed to prevent the creating or spreading of infectious or contagious diseases in beauty parlors or schools of cosmetology, or in the practice of cosmetology. A copy of all sanitary rules thus adopted, shall be furnished to each person, firm or corporation, to whom a license is issued for the conduct of a beauty parlor, school of cosmetology or operator, and every manicurist.

It shall be the duty of the board to hold examinations of all applicants for license (except as herein otherwise provided) whose applications have been submitted in proper form; to issue license to such applicants as may be entitled thereto; *to register beauty parlors and schools of cosmetology*; * * *

The board shall keep a record containing the names and known places of business, and the date and number of license, of every licensed cosmetologist, and those engaged in the practice of any branch of cosmetology, *together with the names and addresses of all licensed beauty parlors, and school(s) of cosmetology.*" (Italics the writer's.)

* * *

Section 1082-4, G. C., makes provision for examination of applicants twice a year:

"The board shall hold a meeting for the examination of applicants for license and the transaction of such other business as shall pertain to its duties at least twice a year, one of which meetings shall be held in the City of Cleveland, and one in Cincinnati, and the board may hold other meetings for the examination of applicants or for the transaction of necessary business as, in its judgment, may be required, at such times and places as it may determine."

Section 1082-5, G. C., among other things makes mention of the training necessary for applicants in schools of cosmetology. It provides in part:

"On and after 60 days after the appointment of the examining board by the governor, and thereafter at stated periods, the board shall hold an examination for the licensing of operator or manicurist, or shall issue licenses, as the case may be, to any person who shall have made application to the board in proper form, and paid the required fee, and who are not otherwise exempted under this act as provided in this act and who shall be qualified as follows:

(a) Applicants for a manager cosmetologist license, shall receive a license as such without an examination, providing they are not less than twenty-one years of age; have practiced in a beauty parlor *or school of cosmetology* as operators for at least 6 months immediately prior to application; be of good moral character, and shall pay the required fee.

(b) Applicants for an operator's license shall not be less than 16

years of age; have a total experience of at least seven hundred and fifty hours of instruction in the majority of the branches of cosmetology or a proportionate number of hours in any lesser group of subjects related to each other *in a school of cosmetology*; be of good moral character, and shall have an education equivalent to the eighth grade of public school, and shall pay the required fee.

(c) Applicants for a manicurist's license shall not be less than 16 years of age; be of good moral character; and shall have had at least practical training of 150 hours *in an approved school of cosmetology* and shall pay the required fee." (Italics the writer's.)

* * *

Section 1082-16, G. C., provides:

"Within 60 days after the appointment of the board as provided in section 3 (G. C. §1082-3) of this act, and annually thereafter during the month of June, every person, firm or corporation conducting or operating or desiring to operate a beauty parlor, in which any one, or any combination of the occupations of a cosmetologist are practiced; and *every person, firm or corporation conducting or operating or desiring to conduct or operate a school of cosmetology, in which any one, or any combination, of the occupations of cosmetologist are taught, shall apply to the board for a license, through the owner, manager or person in charge, in writing upon blanks prepared and furnished by the board.* Each application shall contain proof of the particular requisites for license provided for this act and shall be verified by the oath of the maker.

Upon receipt by the board of the application, accompanied by the required fee, the board shall issue to the person, firm or corporation so applying and otherwise qualifying under this act, the required license.

The annual license fee for a school of cosmetology shall be one hundred (\$100.00) dollars." (Italics the writer's.)

* * *

Section 1082-17, G. C., lays down the requirements for a school of cosmetology, in the following manner:

"Beauty parlors shall be in charge of and under the immediate supervision of a licensed managing cosmetologist. *Schools of cosmetology shall fulfill the following requirements: (a) it shall maintain a school term of not less than seven hundred fifty (750) hours, for the majority of the practices of cosmetology, and shall maintain a course of practical training and technical instruction equal to the requirements for examination for license as a cosmetologist as set forth in section 7 (G. C. §1082-7) herein; (b) it shall possess apparatus and equipment sufficient for the ready and full teaching of all subjects of its curriculum; (c) and shall maintain cosmetologists licensed as managers, as instructors of the practices of cosmetology; (d) it shall keep a daily record of the attendance of each student, and a record devoted to the different practices, and shall establish grades, and hold examinations before issuance of diplomas.*" (Italics the writer's.)

* * *

A reading of Section 1082-17, General Code, quoted supra, does not exclude the public schools which teach cosmetology mentioned in your inquiry. A proper construction of this statute would embrace public schools teaching such subjects as there is no indication therein that only private school enterprises may be licensed as approved schools of cosmetology.

In my opinion the general language used in this statute should not be limited in such a manner as to exclude these schools. As stated in *McCluskey vs. Cromwell*, 11 N. Y. 593, at p. 601:

“Statutes and contracts should be read and understood according to the natural and most obvious import of the language without resorting to subtle and forced construction with a purpose of either limiting or extending their operation.”

It is also stated in *Stanton vs. Realty Co.*, 117 O. S. 345, at p. 349:

“It is a general rule of interpretation of statutes that the intention of the legislature must be determined from the language employed, and where the meaning is clear, the courts have no right to insert words not used, or omit words used, in order to arrive at a supposed legislative intent, or where it is possible to carry the provisions of the statute into effect according to its letter.”

It is my opinion that such public schools could be approved by the State Board of Cosmetology as bona fide schools of cosmetology if such schools meet the requirements laid down in Section 1082-17, General Code, supra. Only when such schools have been so approved would the students of such schools be eligible for examination by the State Board of Cosmetology. See Section 1082-5, General Code, supra.

I come now to the consideration of whether or not such public schools must pay the annual license fee provided in Section 1082-16, General Code. This section reads in part:

“The annual license fee for a school of cosmetology shall be one hundred dollars (\$100.00).”

I am unable to find any provision of law authorizing such public schools through their boards of education to pay such one hundred dollars (\$100.00) license fee to the State Board of Cosmetology. There being no such provision they have no power to pay such license fee. However, in my opinion, the State Board of Cosmetology could approve such schools as bona fide schools of cosmetology without the payment of such fee assuming that they meet all the other requirements of the Cosmetology Act. The maintenance of public schools is a state function. *Miller vs. Korns, Auditor*, 107 O. S. 287. The state should not be required to pay a license fee for the prosecution of its business unless such license statute expressly includes the public schools within its provisions.

It might be argued that because of the lack of such power by the boards of education to pay the required fee the legislative intent was not to embrace such public schools as eligible to be approved by the State Board of Cosmetology. This contention is not wholly meritorious in that the whole object of the Cosmetology Act in requiring students to have a certain amount of training in particular subjects in an approved school of cosmetology is to insure adequate training before

such students are eligible to take the state board examination. If the public schools in question meet all the requirements laid down in Section 1082-17, General Code, supra, they can evidently train the students with the same degree of competence as private schools of cosmetology and thus the primary object of the legislature is adequately met.

Specifically answering your inquiry, it is my opinion that:

1. Public junior high schools, regular high schools and public trade schools may be licensed by the State Board of Cosmetology, if they meet the requirements laid down in Section 1082-17, General Code. To be approved schools of cosmetology, the instructors in such schools teaching cosmetical subjects must be licensed by the State Board of Cosmetology.

2. Public high schools, public junior high schools, and public trade schools are not required to pay the one hundred dollars (\$100.00) license fee, provided in Section 1082-16, General Code, in order to be approved by the State Board of Cosmetology.

Respectfully,

JOHN W. BRICKER,
Attorney General

2716.

APPROVAL, PROCEEDINGS RELATING TO APPLICATION MADE BY THE THOMAS PHILLIPS COMPANY OF AKRON, OHIO, FOR REDUCTION IN DELINQUENT AND CURRENT ANNUAL RENTALS UPON LEASE OF OHIO AND ERIE CANAL LANDS IN CITY OF AKRON, SUMMIT COUNTY, OHIO.

COLUMBUS, OHIO, May 23, 1934.

HON. T. S. BRINDLE, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—You have submitted for my approval the report of your finding upon an application made by The Thos. Phillips Company of Akron, Ohio, for a reduction in the delinquent and current annual rental payable by said company upon a lease of Ohio and Erie Canal lands in the City of Akron, Summit County, Ohio, which canal lands are now occupied and used by said company for general business building purposes.

The lease here in question, which bears serial number O&E 629, was executed under date of August 30, 1929, for a term of fifteen years, expiring August 29, 1944, and the same provided for an annual rental of \$1500.00. It appears from your finding that the lessee is delinquent in the payment of its rental upon this lease for the period from November 1, 1933, to May 1, 1934, amounting to the sum of \$750.00. And, as above noted, the application filed with you is for a reduction in the amount of this delinquent rental as well as for a reduction in the amount of the current rent on this lease from May 1, 1934, to May 1, 1935.

This application for an adjustment of delinquent and current rentals under this lease was filed with you on or about the 17th day of November, 1933, pursuant to the provisions of House Bill No. 467, which was passed by the 90th Gen-