

in relation to tax exemptions, and, among other things, cited with approval in its opinion a Georgia case, which held:

"The term 'institution' is sometimes used as descriptive of an establishment, or place, where the business or operations of a society or association is carried on; at other times it is used to designate the organized body. *Gerke vs. Purcell*, 25 Ohio St. 244."

The foregoing will indicate that the term "public institution" is a rather broad term and may include a corporate body as well as a building or place.

Section 2976 of the General Code provides that a board of park commissioners "shall be a body politic and corporate." Logically there is no reason why a member of such a board should not be inhibited in the same manner as other officers mentioned in Section 12910, *supra*. In my opinion, in the use of the term "public institutions" the Legislature clearly intended to include boards such as you mention.

You are specifically advised, therefore, that officials and employes of the Cleveland Metropolitan Park District are included within the terms of Section 12910 of the General Code.

Respectfully,
GILBERT BETTMAN,
Attorney General.

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CRIMINAL COURT—LIMA—NO AUTHORITY FOR APPOINTMENT OF
PROBATION OFFICER.

SYLLABUS:

There is no statutory authority for the office of probation officer for the criminal court at Lima.

COLUMBUS, OHIO, July 20, 1929.

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

GENTLEMEN:—Your recent communication reads:

"Section 4587, G. C., reads:

'In each municipality having a police court, the council, by ordinance, shall provide for the appointment of one or more persons to be known as probation officers. Probation officers shall devote their time to the interests of persons placed upon probation. Upon the order of the police court, they shall investigate the circumstances of any case that may come before the court for final jurisdiction.'

Section 14740-34, G. C., reads:

'The clerk of the mayor shall act as clerk for said court.'

QUESTION: May the clerk of the municipal court at Lima, Ohio, legally hold the office of probation officer at the same time?"

In your question you refer to the "Municipal Court at Lima." There seems to be no specific statute establishing a so-called municipal court in the city of Lima. However, it is assumed that you refer to the court established in the city of Lima

by Sections 14740-24 et seq. of the General Code, which is designated as "a criminal court."

Section 15, Article IV of the Ohio Constitution authorizes the Legislature to establish courts other than those that are provided for in the Constitution itself. In pursuance of this constitutional authority the Legislature has from time to time established police courts, municipal courts, criminal courts and, of course, other courts. However, it appears that, generally speaking, in the establishment of courts relating to the enforcement of the criminal law it has generally referred to them either as municipal, criminal, or police courts.

Section 4587, General Code, which you quote is found in Chapter II which deals with police courts. The chapter defines the jurisdiction, terms, etc., of police judges when the same are provided by law. There are other sections that give mayors of municipalities jurisdiction when no police courts have been established. While police courts and criminal courts have, in many instances, somewhat similar, if not the same, jurisdiction as police courts it is not believed that the term "municipal court" is synonymous with the term "criminal court" or with the term "police court." In many instances in the establishment of a municipal court, the act provides that such court shall have all of the jurisdiction, powers and duties of police courts. However, in the establishment of the criminal court at Lima the Legislature did not see fit to provide that such court should have the powers, duties and jurisdiction of a police court. The jurisdiction of that court is defined in the act creating it and makes no reference whatever to police courts, though of course it does grant the same jurisdiction in many respects.

In view of the foregoing, I am compelled to the conclusion that Section 4587 does not authorize the council of the city of Lima to provide for the appointment of probation officers for the reason that said city has no police court within the contemplation of the section. Neither is there any other authority authorizing the appointment of such probation officers for said city.

Section 1554-1 of the General Code authorizes the establishment of a county probation department in the manner therein provided for, which when established shall receive into the legal control and supervision of such department any person residing within the county who may have been placed upon probation by order of any other court exercising criminal jurisdiction in this state, whether within or without such county, upon the request of such court and subject to the continuing jurisdiction thereof.

Sections 1662, et seq., of the General Code relate to the probation of persons coming under the jurisdiction of juvenile courts.

Sections 13712, et seq., of the General Code provide that when the trial court has no regular probation officer, or no county department of probation has been established, the court or magistrate shall designate some suitable person to act as probation officer in a given case, etc.

However, it is believed that none of the sections last mentioned authorizes the appointment of a permanent probation officer for the criminal court at Lima.

In view of the conclusions that I have hereinbefore reached, it is unnecessary to consider the question of whether or not the clerk of the criminal court at Lima, whom the statute provides shall be the clerk of the mayor, may be the probation officer of said court.

Respectfully,
GILBERT BETTMAN,
Attorney General.