

1817.

OHIO REFORMATORY FOR WOMEN—PERSONAL PROPERTY OF ESCAPED INMATE—DECEASED INMATE—HOW DISPOSED OF.

1. *Personal property abandoned by an escaped inmate of the Ohio Reformatory for women, and not reclaimed by such inmate within a period of eighteen months, may be disposed of in accordance with the provisions of section 14975 of the General Code.*

2. *Personal property of a deceased inmate of such an institution should be administered by the probate court, of the county wherein such inmate resided at the time of his death, in accordance with the provisions of section 10604 of the General Code. If there be no living heirs to inherit, property vests in state under provisions of section 8579 G. C.*

COLUMBUS, OHIO, January 26, 1921.

Ohio Board of Administration, Columbus, Ohio.

GENTLEMEN:—Your recent communication relative to the matter of the disposal of certain personal effects of inmates of the Ohio Reformatory for Women, Marysville, Ohio, has been received and due attention given the same. For the sake of clearness and brevity in the matter a copy of your letter is herewith attached:

“We are this morning in receipt of a letter from the superintendent of the Ohio Reformatory for Women, Mrs. Louise M. Mittendorf, Marysville, Ohio, which reads as follows:

‘Kindly instruct me what shall be done with inmates’ effects in cases of this kind:

1. About eighteen months ago an inmate escaped and was never apprehended. She left here a fur coat said to have cost about \$500.00.

2. Another inmate died. We never were able to locate relatives; so far as we know, she had none. When she came to the institution she had a valuable traveling bag and a large quantity of fine crochet work.

Shall such effects be disposed of after a given time? If so, how, and what shall be done with the proceeds?’

We would respectfully ask your opinion in this case.”

In attempting to offer you an opinion upon the questions you have submitted in the letter above, it should be noted that the same is based upon the assumption that the facts and circumstances surrounding the existing conditions remain constant, as any change in the same might give rise to other and new legal problems foreign to the reasoning of this opinion, which might require and suggest entirely different methods of legal procedure.

Upon analysis of your first question it would be fair to assume that after eighteen months have elapsed since the escape of the inmate from the reformatory institution that said institution has abandoned all hopes of apprehending her, for her apprehension and return to the institution subsequent to the disposal of the property might give rise to a new and perplexing condition of affairs which might be difficult, if not embarrassing, to the institution, and in such an event it might not be unfair to presume that the law would consider the reformatory institution as the legal custodian of the inmate’s personal effects, and accountable therefor.

Assuming, however, that the Ohio Reformatory for Women has abandoned all efforts in the direction indicated above; that there are no valid claims against

the personal property mentioned in the first question; that no person claims a better title to the property than the possessor, and that to all intents and purposes it may be considered as abandoned property, then it may be well, should the institution so desire, to proceed to a disposal of the same by due process of law, bearing in mind, however, the constitutional inhibition of its disposal otherwise.

Upon examination of the statute law of Ohio it will be discovered that there is no specific statute which would govern or apply to the question under consideration. Neither is there precedent nor an opinion offered by a former Attorney-General upon the same, and it is doubtful if any rule or regulation adopted by the board of administration could dispose of private property by any method, rule or procedure other than by due process of law, in the absence of all of which it would be necessary to proceed to the general statutes for a method of procedure which would accomplish the desired end and which would at the same time meet with the constitutional requirements.

Section 14975 of the General Code would seem to apply to the disposal of abandoned property. The statute is as follows:

"That whenever any property abandoned, stolen or supposed to have been stolen, shall come into the possession of any sheriff, constable or other person, except a policeman or city marshal, and shall remain in the possession of said officer or person for a period of thirty days without being reclaimed by the owner, said property, if an animal, shall be disposed of as provided in said chapter in regard to estrays; if other than an animal, it shall be disposed of as provided in said chapter in regard to drifts."

In regard to drifts, section 14969 G. C. governs when drift shall be taken up, section 14966 G. C. provides for the description and appraisement of drift, while sections 14961 G. C. and 14962 G. C. provide for the sale and final disposition of the proceeds.

Proceeding to the second question under consideration, namely, the disposal of the personal effects of the deceased inmate: In this case it would seem that an administrator should be appointed under the provisions of section 10604 G. C., which provides as follows:

"Upon the death of an inhabitant of this state, letters testamentary, or letters of administration on his estate, shall be granted by the probate court of the county in which he was an inhabitant or resident at the time he died. * * *"

Section 10697 G. C. provides method of the sale of personalty by the executor or administrator, and in this connection it is to be presumed that there were some debts against the estate of the deceased inmate.

Assuming there are no legal representatives as stated, and that said effects have been sold by the administrator, as indicated above, any funds remaining in his hands after paying the necessary court costs would be subject to distribution under the provisions of section 8578 G. C., which provides for the distribution of personal property in such a case. If, under the provisions of the law relative to descent and distribution, there are no persons living to inherit, the undistributed funds in such event would pass to and be vested in the state under the provisions of section 8579 G. C., which provides as follows:

"If there be no person living to inherit it by the provisions of this chapter, such personal property shall pass to and be vested in the state.

The prosecuting attorney of the county, in which letters of administration are granted upon such estate, shall collect and pay it over to the treasurer of such county; to be applied exclusively to the support of the common schools of the county in which collected, in such manner as is prescribed by law."

Respectfully,
JOHN G. PRICE,
Attorney-General.

1818.

BANKS AND BANKING—FOREIGN TRUST COMPANY—ACCEPTED DEED OF TRUST TO REAL ESTATE EXECUTED PRIOR TO JULY 11, 1919, AND COMPLIED WITH LAW THEN IN FORCE—PROVISIONS OF NEW BANKING ACT NOT APPLICABLE.

A trust company, organized under the laws of another state and doing business therein, accepted a deed of trust to real estate duly executed and recorded prior to July 11, 1919, and complied with the provisions of sections 9778 and 9779 G. C., then in force. All the bonds secured by said deed were issued prior to July 11, 1919, and the company is performing no function in the state except holding the legal title to said real estate. Held that it can not be required to comply with the provisions of section 710-17c, section 710-150, section 710-151, or section 710-152 G. C.

COLUMBUS, OHIO, January 26, 1921.

HON. IRA R. PONTIUS, *Superintendent of Banks, Columbus, Ohio.*

DEAR SIR:—Your recent communication contains the following statement and query:

"SET OF FACTS:

Assuming that:

(1) Prior to July 11, 1919, a trust company, duly organized under the laws of the state of Massachusetts and doing business therein, accepted a conveyance, as trustee of certain real estate located in Ohio, for the purpose of securing the payment of principal and interest of bonds issued and to be issued by the conveyor of said property;

(2) Said trust deed was duly executed, recorded and all of the bonds authorized to be issued thereunder issued and certified by said trustee prior to July 11, 1919;

(3) Prior to July 11, 1919, the acceptance of said trust and the issuance of said bonds, said trustee fully complied with and qualified under the provisions of sections 9778 and 9779 of the General Code then in force;

(4) Said trustee has no office, place of business, officers or agent within the state of Ohio, its only activity in said state being confined to its acceptance of said trust and its certification of said bonds as aforesaid;

(5) The laws of the state of Massachusetts do not afford such comity as is made the basis of the exemption referred to in section 710-154, General Code.

QUERY:

Until such time as said trust company undertakes, in connection with said trust, some activity within the state of Ohio other than holding title