

2760.

ABSTRACT, STATUS OF TITLE, LOT NO. 30 OF JOHN W. BURTON'S SUBDIVISION OF THE NORTH HALF OF THE SOUTH HALF OF LOT 278 OF R. P. WOODRUFF'S ADDITION TO THE CITY OF COLUMBUS, OHIO.

COLUMBUS, OHIO, Sept. 4, 1925.

HON. CARL E. STEEB, *Secretary, Board of Trustees, Ohio State University, Columbus, Ohio.*

DEAR SIR:—You have submitted an abstract last continued by Graves and Westervelt, Abstractors, July 30, 1925, inquiring as to the status of the title of lot No. 30 of John W. Burton's subdivision of the north half of the south half of lot 276 of R. P. Woodruff's addition to the city of Columbus, as disclosed by said abstract.

An examination of the deed and said abstract shows a good title to be in the Upper Arlington Company, free from encumbrances excepting the taxes for the year 1925, which are undetermined, unpaid and a lien.

You have further submitted encumbrance estimate No. 424, which contains the certificate of the Director of Finance to the effect that there are unencumbered balances in the interest on endowment fund, sufficient to cover the purchase price of said property.

You have also submitted a deed executed by the Upper Arlington Company which it is believed is sufficient to convey said premises to the state when the same is properly delivered. Under the terms of this deed it will be necessary for the state to pay the taxes for the year 1925.

Said abstract, deed and encumbrance estimate are enclosed herewith.

Respectfully,

C. C. CRABBE,

*Attorney General.*

2761.

QUESTIONS RELATING TO EMPLOYMENT OF SUPERINTENDENT FOR COUNTY CHILDREN'S HOME ANSWERED—SECTIONS 486-17a AND 3084 G. C. CONSTRUED.

SYLLABUS:

*Under the provisions of section 486-17a G. C., when the trustees of a county children's home make an appointment of a superintendent thereof, under section 3084 G. C., it is not for a specific term, but the appointment shall be during good behavior and efficient service of such superintendent, subject only to be removed for the causes in said section mentioned.*

*The position of superintendent of a county children's home, not being a public office, but that of an employe, his salary may be increased or decreased as the trustees of the county children's home shall determine.*

COLUMBUS, OHIO, Sept. 8, 1925.

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

GENTLEMEN:—This will acknowledge receipt of your letter of the 24th instant requesting my opinion as follows:

"When a superintendent of a county children's home is appointed under the provisions of section 3084, General Code, may he be appointed for a specific term? If he is appointed for a specific term, and he is in the classified service, may the trustees terminate his employment at the end of such term without preferring charges against him as required by the civil service law?

"Whether he is appointed for a specific term or not, may the trustees legally increase his salary, or must he always receive the salary designated by the trustees at the time of his employment?"

Section 3084 G. C. involved in your inquiry is as follows:

"The board of trustees shall designate a suitable person to act as superintendent of the home, who shall also be clerk of such board, and who shall receive for his services such compensation as the board of trustees designates at the time of his appointment. He shall perform such duties, and give security for their faithful performance, as the trustees require."

Section 486-8 G. C., paragraph (b) provides that:

"The classified service shall comprise all persons in the employ of the state, the several counties, cities and city school districts thereof, not specifically included in the unclassified service, to be designated as the competitive class and the unskilled labor class."

An examination of section 486-8 G. C. involving the positions in the unclassified service of the state of Ohio and the several counties, etc., fails to disclose any exception from the classified service of the position of superintendent of the county children's home. Not being thus excepted, the provisions of paragraph (b) above quoted govern it.

Being included in the classified service, the provisions of section 486-17a G. C., become material to our inquiry as follows:

"The tenure of every officer, employee or subordinate in the classified service of the state, the counties, cities and city school districts thereof, holding a position under the provisions of this act, shall be during good behavior and efficient service; but any such officer, employee or subordinate may be removed for incompetency, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public, neglect of duty, violation of the provisions of this act or the rules of the commission, or any other failure of good behavior, or any other acts of misfeasance, malfeasance or nonfeasance in office. \* \* \*"

It follows therefore from the provisions above quoted that the tenure of the superintendent of the county children's home is "during good behavior and efficient service," subject of course, to the later provisions mentioned in the above section.

In the case of State of Ohio ex rel vs. McGonagle, 5 G. C., (N. C.) page 292, it was held:

"The position of superintendent of the county children's home, under section 930, revised statutes of Ohio, (now section 3084 G. C.), is a mere employment, and not an office, \* \* \*"

Referring to the remaining portion of your inquiry, viz. whether the trustees

may legally increase the salary of the superintendent or not, it is believed that the position of superintendent of a county children's home, not being a public office, but that of an employe, his salary may be increased or decreased as the trustees of the home shall determine.

Respectfully,

C. C. CRABBE,

*Attorney General.*

2762.

LIQUOR LEGALLY POSSESSED IN PRIVATE DWELLING MAY BE  
MOVED BY OBTAINING FEDERAL PERMIT.

SYLLABUS:

*A person having liquor legally in his bona fide private dwelling in Ohio may move same to his new or future dwelling, if he obtains a federal permit to do so.*

COLUMBUS, OHIO, Sept. 8, 1925.

HON. B. F. McDONALD, *Prohibition Commissioner of Ohio, Columbus, Ohio.*

DEAR SIR:—On August 26th, I received the following letter from you:

"The federal prohibition department, I understand, have refused to grant permits for the transporting of liquors legally held in a private home to some new or future home, on the theory that they are issuing such permit in violation of the law of Ohio.

"I desire your opinion on the question as to whether or not liquors lawfully held in a private home can be transported to a new bona fide home or other legal destination under permit from the federal prohibition department."

Section 6212-15, General Code, reads as follows:

"No person shall, after the passage of this act, manufacture, sell, barter, transport, import, export, deliver, furnish, receive, give away, prescribe, possess, solicit or advertise any intoxicating liquors, except as authorized in this act. Liquor, and liquor preparations and compounds for non-beverage purposes, and wine for sacramental purposes may be manufactured, purchased, sold, bartered, transported, imported, exported, delivered, furnished, received, given away, possessed, prescribed, solicited and advertised, but only in accordance with the provisions of title II of the act of congress known as the 'National Prohibition Act,' passed October 28, 1919."

This section, standing by itself, would prevent the possession and transporting of liquors, except those for non-beverage purposes, even with a federal permit to do so, and would amount to a confiscation.

Paragraph 2 of section 6212-14, General Code, reads:

"The term 'given away' and the term 'possess' shall not apply to intoxicating liquor in a bona fide private dwelling."