

2201.

DELINQUENT CHILD—WHEN JUVENILE COURT MAY COMMIT GIRL  
OVER 18 YEARS OF AGE TO GIRLS' INDUSTRIAL SCHOOL.

## SYLLABUS:

*A girl over eighteen years of age may be admitted to the Girls' Industrial School, when the Juvenile Court, prior to her eighteenth birthday, has duly committed her thereto, provided said order of commitment has not been rescinded, or suspended, requiring further order of commitment after said eighteenth birthday.*

COLUMBUS, OHIO, February 5, 1925.

HON. JOHN E. HARPER, *Director, Dept. of Public Welfare, Columbus, Ohio.*

DEAR SIR:—Acknowledgment is hereby made of your recent communication which reads:

“Referring to the commitment of delinquent children by the Juvenile Court, section 1652 G. C. states:

“In case of a delinquent child the judge may continue the hearing from time to time and may commit the child to the care or custody of a probation officer, and can allow such child to remain in its own home, subject to the visitation of the probation officer or otherwise, as the court may direct, and subject to be returned to the judge for further or other proceedings whenever such action may appear to be necessary \* \* \* or the judge may commit such child \* \* \* if a girl, to an industrial school for girls \* \* \*.”

“Section 1653-1 G. C., provides that no child under ten years or over eighteen years of age shall be committed to the Girls' Industrial School.

“May we have your opinion on the following question:

“May a girl committed by the juvenile court to the Girls' Industrial School prior to her eighteenth birthday be held by the court until she has passed her eighteenth birthday and then be admitted to the institution. If so, may such a girl so committed be received at the school at any time prior to her twenty-first birthday?”

The provisions of section 1652 General Code, so far as pertinent herein, are quoted in your communication, and it is evident that a juvenile judge may commit a delinquent girl to the Industrial School. Statutory limitation upon such commitment is contained in section 1653-1 General Code, which provides that,

“The provisions of section 1652 shall not apply to the Girls' Industrial School, \* \* \*, so far as the same allows the commitment of a child under ten years or over eighteen years of age to such institution \* \* \*, nor shall any child under ten years or over eighteen years of age, be committed to such school \* \* \*.”

The language of said section is plain and unambiguous and clearly prohibits the commitment of a girl, over eighteen years of age, to the Girls' Industrial School.

It will be noted that the inhibition herein is against the commitment and not against the admission to said Industrial School.

The "commitment" is the act of the magistrate in committing or ordering to prison.

In the case of *Mullins vs. Treasurer*, 7 Appel. Cases 1, 9, the Court says:

"The argument of the appellant proceeds on the supposition that the 'commitment to prison' does not mean the commitment by magistrate but means the actual transfer into the prison and reception in the prison of the prisoner, but I think that the natural and ordinary meaning of 'commitment to prison' is the act of the magistrate in committing to prison, and, in reversing the lower court, the court continued as follows:

"The first question is "what do the words commitment to prison" here mean? Lush J. thought that they meant "received into prison", and on that based his judgment. But I cannot agree with him. I think that the words both in common parlance, and in legal phraseology, mean when the order is made under which the person is to be kept in prison."

Section 2101 of the General Code provides as follows:

"The Girls' Industrial School shall be for the instruction, improvement, and reformation of evil disposed, incorrigible, and vicious girls."

Section 2112 of the General Code provides as follows:

"A girl, duly committed to the school, shall be kept there, disciplined, instructed, employed, and governed under the direction of the Board until she is either thought to be reformed, or discharged, or bound out by the Chief Matron, according to the by-laws of the Institution, or has attained the age of twenty-one years."

Section 2113 of the General Code provides as follows:

"When the best interest demands it, with the approval of the full board, the Chief Matron may receive back into the school any girl under twenty-one years of age who has been discharged therefrom."

There seems to be nothing in the chapter relating to the Girls' Industrial School and nothing in other statutes prohibiting the admission of girls to the Industrial School, who are under 21 years of age, but as stated herein, the prohibition is against the commitment of said girls after they are eighteen years of age. It is, therefore, believed that if a girl be duly committed to said Industrial School prior to her eighteenth birthday, that she may be admitted to said school after she has passed her eighteenth birthday. This position is strengthened by an opinion of this department found in Volume 1, 1915 Opinions of the Attorney-General, page 621. The syllabus reads as follows:

"Juvenile court judge is without authority to commit youth over eighteen years of age to Boys' Industrial School, notwithstanding status of delinquency attached to youth prior to arriving at age of eighteen."

The facts upon which that opinion was based were—that a boy, fourteen years of age, was found to be delinquent, and placed on probation and permitted to remain with his parents and report to the court or to the probation officer. After reaching the age of eighteen, he violated his probation, and the Juvenile Judge then sought to commit him to the Boys' Industrial School. The Superintendent of said Industrial School refused to receive him, on the ground that he was committed after he became

eighteen years of age, and the opinion held as stated in the Syllabus. However, in said opinion, the Attorney-General stated as follows:

"It appears from the statement of facts presented by you that when the case under consideration was originally disposed of in your court, the youth was placed on probation, committed to the charge of his parents and directed to report to the probation officer. At that time, the court might have, had it seen fit, committed the boy to the Boys' Industrial School, he being under the age of eighteen years, to-wit; fourteen years. This was not done and the Industrial School authorities, therefore, did not acquire jurisdiction over the boy such as would enable them at this time, notwithstanding his having passed the age of 18 years, to receive him as an inmate of the school.

"While under the provisions of section 1643 of the General Code, as amended, quoted above, the delinquent remains a ward of the court for all necessary purposes of discipline and protection until he or she attains the age of twenty-one years, the extent to which the juvenile court may exercise its powers of discipline and protection is necessarily limited by the existing laws, in the case under consideration, to the particular limitation against the commitment of a boy over the age of eighteen years to the Boys' Industrial School."

"Under the provisions of section 1652 of the General Code, as amended, quoted above, the juvenile court is authorized to have returned to him a delinquent who has been placed on probation when it is made apparent to the court that further proceedings are necessary and, until the time when the boy has reached the age of eighteen years, the court would be authorized to commit him to the Boys' Industrial School. Failing to act before that time, however, the Boys' Industrial School would not be open to receive a boy over eighteen years of age."

It is therefore, the opinion of this department that a girl over eighteen years of age may be admitted to the Girls' Industrial School, when the Juvenile Court, prior to her eighteenth birthday, has duly committed her thereto, provided said order of commitment has not been rescinded, or suspended, requiring further order of commitment after said eighteenth birthday.

Respectfully,  
C. C. CRABBE,  
*Attorney-General.*

2202.

APPROVAL, CONTRACT BETWEEN STATE OF OHIO AND THE PERMUTIT COMPANY, FOR CONSTRUCTION AND COMPLETION OF WATER SOFTENER EQUIPMENT WITH ELECTRIC ALARM METERS FOR MIAMI UNIVERSITY, OXFORD, OHIO, AT COST OF \$2,910.00. SURETY BOND EXECUTED BY THE NATIONAL SURETY COMPANY.

COLUMBUS, OHIO, February 6, 1925.

HON. L. A. BOULAY, *Director, Department of Highways and Public Works, Columbus, Ohio.*

DEAR SIR:—You have submitted for my approval a contract between the State

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