

amount but also in substance, as to each detail of each transaction which is capable of separate consideration; and to pay only on the basis of such separable transactions as represent the transactions which the legislature has approved and thus stamped as valid and just.

Respectfully,
 JOHN G. PRICE,
Attorney-General.

1063.

PROBATE COURT—WITHOUT JURISDICTION IN INSANITY CASES WHERE RESIDENCE OF ALLEGED INSANE PERSON IS KNOWN UNLESS SAID PERSON HAS LEGAL SETTLEMENT IN COUNTY—WHAT IS LEGAL SETTLEMENT—CASES OF NON-RESIDENT OR WHERE RESIDENCE IS UNKNOWN OF ALLEGED INSANE PERSON, COURT MAY TAKE JURISDICTION FOR PURPOSES CONTEMPLATED IN SECTIONS 1819 AND 1820 G. C.

A probate court has not jurisdiction in insanity cases where the residence of the alleged insane person is known unless said person has a legal settlement in the county. To acquire such a legal settlement the person must have lived in said county for a period of twelve consecutive months. However, in case the alleged insane person is a non-resident of the state, or his residence is unknown, the probate court may take jurisdiction for the purposes contemplated in sections 1819 and 1820 G. C.

COLUMBUS, OHIO, March 9, 1920.

HON. JOHN COONROD, *Probate Judge, Fremont, Okla.*

DEAR SIR:—Your letter of recent date is as follows:

"In section 1953 G. C. the form of affidavit to be filed in insanity cases must be substantially as follows:

"The State of Ohio.....County ss:
, the undersigned, a citizen of.....county, Ohio, being sworn, says that he believes.....is insane, (or, that in consequence of his insanity, his being at large is dangerous to the community.) He has a legal settlement in.....township, in this county.

Dated this.....day of....., A. D."

In order to give the Probate Court jurisdiction in insanity cases, must the alleged insane person have resided continuously in this county for twelve consecutive months as is provided by section 3477 G. C., which defines legal settlement?"

The opening paragraph of section 1953 G. C., to which you refer, is as follows:

"For the admission of patients to a hospital for the insane, the following proceedings shall be had. A resident citizen of the proper county must file with the probate judge of such county an affidavit, substantially as follows:" (Then follows the form of affidavit set out in your letter).

Section 3477 G. C. provides in part:

"Each person shall be considered to have obtained a legal settlement

in any county in this state in which he or she has continuously resided and supported himself or herself for twelve consecutive months, without relief under the provisions of law for the relief of the poor, * * *.”

An investigation discloses that the term “legal settlement” was used in an act entitled “A Law for the Relief of the Poor,” declared by the governor and judges of the northwest territory to be a law in 1795, and that various repeals and amendments down to the enactment of section 3477, supra, which relate to the same subject as the original law, the same term has been used with the same meaning.

The form of affidavit as set forth in section 1953, supra, was first prescribed in an act of the legislature passed April 7, 1856 (4 Curwen, 2740) which related to the care of idiots and the insane. Section 41 of said act empowered probate judges to appoint guardians upon proof that any person, a resident of the county or having a “legal settlement” in any township thereof, was insane. Section 62 of said act authorized the county commissioners to allow a sum not to exceed fifty dollars per year for the support of an idiot or insane person having a “legal settlement” in any township of the county.

Section 32 of said act provided as follows:

“Paupers, idiots and lunatics not within the meaning of this act, and those discharged from the asylum shall be provided for in the same manner as other poor.”

Inasmuch as the term “legal settlement” was used in this act and said act makes reference to the poor laws, it is believed that the term “legal settlement” as used in the form of affidavit refers to the same legal settlement as used in section 3477 G. C. Therefore it is essential that the alleged insane person, where his residence is known, must have resided in the county for a period of twelve months before the probate court can legally acquire jurisdiction. The object of the law seems to be that the burden of supporting an insane or indigent person shall be cast upon the county wherein he has a legal settlement and to protect the county in which he is temporarily residing from liability for his support.

Each county of the state is entitled to its quota of patients to the state hospital for the insane in its district, which it seems it is not required to exhaust except in the committing of patients having a proper legal settlement in the county.

However, in this connection consideration must be given to sections 1819 and 1820 G. C., which relate to the procedure that shall be taken by the superintendent of a hospital or a probate judge in cases wherein the alleged insane person is a non-resident of the state or his residence is unknown.

Section 1819 G. C. provides:

“If the judge or superintendent finds that the person whose commitment or admission is requested has not a legal residence in this state, or his legal residence is in doubt or unknown, and is of the opinion that such person should be committed or admitted to such institution, he shall notify without delay the Ohio board of administration, giving his reasons for requesting commitment or admission.”

Section 1820 G. C. provides:

“The Ohio board of administration by a committee, its secretary, or such agent as it designates, shall investigate the legal residence of such person, and may send for persons and papers and administer oaths or affirmations in conducting such investigation. At any time later investigation is made,

and before or after the admission, or commitment to such institution, a non-resident person whose legal residence has been established may be transported thereto at the expense of this state."

In view of these sections it would seem that a court can not properly carry out the provisions therein, unless it has taken jurisdiction.

It therefore is the opinion of this department that where the residence of the alleged insane person is known a probate court can not properly acquire jurisdiction unless the alleged insane person has acquired a legal settlement in the county by having resided therein for the period of twelve months. On the other hand, where the alleged insane person is a non-resident of the state or his residence is unknown a probate court may take jurisdiction for the purpose contemplated in sections 1819 and 1820 G. C.

It is believed that the view herein taken is in accord with an opinion rendered by my predecessor reported in Vol. III, page 2037, Opinions of the Attorney-General for 1917.

Respectfully,

JOHN G. PRICE,

Attorney-General.

1064.

APPROVAL OF SYNOPSIS OF REFERENDUM OF HOUSE BILL NO. 590,
AMENDING SECTION 4862 G. C. PROVIDING THAT WOMEN MAY
VOTE AND BE VOTED FOR AT CERTAIN ELECTIONS.

Synopsis of section 4862 G. C., as amended January 14, 1920, etc., approved and certified to be a truthful statement of the contents and purpose of the amended law.

HON. JOHN H. DRUFFEL, *Manager. The Ohio Anti-Women's Suffrage League, Cincinnati, Ohio.*

COLUMBUS, OHIO, March 9, 1920.

DEAR SIR:—Your letter of March 8, 1920, relative to my approval and certification of a synopsis of the act entitled "An Act to amend section 4862 of the General Code to provide that women may vote and be voted for at certain elections," passed January 14, 1920, approved by the governor January 20, 1920, and filed in the office of the secretary of state January 20, 1920, and commonly referred to as House Bill No. 590, was duly received.

I, John G. Price, Attorney-General of the State of Ohio, do hereby certify that the following synopsis is a truthful statement of the contents and purpose of the act above mentioned, viz.:

"The act known as house bill No. 590, passed by the general assembly on January 14, 1920, approved by the governor on January 20, 1920, and filed in the office of the secretary of state on January 20, 1920, amends section 4862 of the General Code, so as to provide that every woman born in the United States or who is the wife or daughter of a citizen of the United States, who is over twenty-one years of age and possesses the necessary qualifications in regard to residence provided for men shall be entitled to vote and be voted for for member of the board of education and presidential elector and to vote and be voted for at any and all primaries or other elections pro-