

"or if such institution or agency has otherwise legally acquired the custody and control of said child,"

as used in Clause (b) of said section, and

"such institution or agency has otherwise legally acquired the custody and control of such child,"

as used in Clause (f) of said section.

The two sections are in *pari materia*, and therefore, must be construed together. Both sections relate to the same subject matter in respect to the power of the Division of Charities and its licensed agencies to consent to the permanent adoption of a child. While Section 8025, *supra*, appears in connection with the regular adoption sections, deals with consent in such proceedings generally, when the child is in one of the institutions therein mentioned, Section 1352-12, *supra*, contains a special provision insofar as it affects the children mentioned in said section, and therefore is inconsistent with Section 8025, *supra*, insofar as the latter authorizes that which the former prohibits.

As indicated in your letter Section 1352-12, *supra*, expressly mentions Section 8025, *supra*, in reference to such consent and is later, in the order of enactment. Therefore, applying the familiar rules of construction to the statutes being considered, the conclusion is irresistible, that Section 8025, *supra*, was repealed by implication by Section 1352-12, *supra*, as amended in 1923 to the extent that the former is inconsistent with the latter.

In passing it may be pointed out, that no hardship need result in the case you present for the reason that the child, if abandoned by its parent, may be committed as a dependent by the Juvenile Court and then of course such agency could obtain the same guardianship as if the original relinquishment had been in proper form. Moreover, a next friend could be appointed under Section 8025, *supra*, who would be authorized to consent to such adoption.

In conclusion and in specific answer to the inquiries submitted, you are advised that, in my opinion, the provisions of Section 1352-12, General Code, requiring agreements, for the surrender of the custody of children to the institutions mentioned in said section, to be "in writing, on forms prescribed and furnished by the Division of Charities, Department of Public Welfare," are mandatory to the extent that the form used must be in accord with the form so prescribed in all essential details and that an agreement made otherwise is invalid. It is my further opinion that Section 1352-12 repealed Section 8025 by implication, to the extent only, that the latter is inconsistent with the former.

Respectfully,
EDWARD C. TURNER,
Attorney General.

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APPROVAL, BONDS OF BROADVIEW HEIGHTS VILLAGE, CUYAHOGA COUNTY—\$25,350.00.

COLUMBUS, OHIO, November 2, 1928.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.