

It being established that the only effect of section 2526 G. C. is to require gratuitous labor from the infirmary inmates in respect of the maintenance of the institution and the care of its inhabitants, it is believed that there is nothing to prevent such inmates from working for compensation at times when they would otherwise be idle.

Whether the county commissioners may not take possession of the moneys earned by such inmates, is another question. The county home is, of course, an institution supported by taxpayers. It is not intended that persons should resort thereto, be maintained without expense to themselves, and meanwhile enrich themselves. Section 2548 G. C. (108 O. L., Part I, p. 270) provides that when a person becomes a county charge and owns property, real or personal, the county commissioners shall seek to secure possession of such property and apply the proceeds therefrom to the maintenance of the owner while he remains a county charge.

It may well be doubted, however, whether said section is applicable where the property of the inmate is *insignificant* in value. It is hard to think that the legislature ever intended that the county commissioners should take from an unfortunate inmate of the infirmary every cent of money or every item of property he or she possessed. Under such a harsh rule, the inmate could not buy his own postage stamps, or many other articles highly desirable for personal comfort but of small intrinsic value. Rather does it seem probable that the intention was to vest a measure of discretion with the county commissioners, and to leave it with that body to determine when the inmate's property was and was not sufficient in value to justify the institution of proceedings under section 2548 G. C.

For the reasons just given, it is concluded that it is not illegal for blind inmates of county homes to perform labor for the Ohio commission for the blind at times when their services are not required by the superintendent or the matron for the maintenance of the county home or the care of its inmates; nor is it illegal for the county commissioners to permit such inmates to retain for their own use insignificant sums of money received by said blind inmates from the Ohio commission for the blind as compensation for such labors.

Respectfully,  
JOHN G. PRICE,  
*Attorney-General.*

1618.

PROBATE COURT—ADOPTION OF MINOR CHILD—NOT REQUIRED  
THAT CHILD OR ITS NATURAL PARENTS BE CITIZENS OF  
UNITED STATES—RIGHT TO INHERIT PROPERTY BY ALIENS  
AND CITIZENS OF UNITED STATES UNDER OHIO LAWS.

1. *The statutes of Ohio do not require, as a condition of the adoption of a minor child, either that said child be a citizen of the United States, or that its natural parents, or either of them, be citizens.*

2. *By reason of section 8589 G. C., aliens stand on the same footing with citizens of the United States, as far as the right under the laws of Ohio to inherit property is concerned.*

COLUMBUS, OHIO, October 15, 1920.

HON. H. H. SHIRER, *Secretary, Board of State Charities, Columbus, Ohio.*

DEAR SIR:—Acknowledgment is made of your letter reading thus:

"A certain child-caring institution in this state has submitted to us two cases which relate to adoption under somewhat peculiar circumstances. As these questions are of such a general character and may ultimately concern certain wards of the board of state charities, we submit the matter to you for information.

The cases are as follows:

1. Two children were born in Germany in 1900 and 1902. Later these children and their parents came to the United States. In 1911 the juvenile court committed the children to the children's home with consent to adoption. These children were adopted by a family in Ohio in 1913. The mother died before the commitment of the children and because of the lack of care on the part of the father, the children were committed to the institution. The father has not become naturalized or even declared his intention.

2. A citizen of Greece married an American woman. The father has not become naturalized, nor has he declared his intentions. Because of his desertion of his family and the inability of the mother to care for the child, the juvenile court committed this child to the children's home with authority to consent to adoption. The child has been adopted by a family in Ohio.

Both instances lead to the following inquiries:

1. Is either, or both, of these adoptions valid, viewed from the condition of citizenship in the United States of these children and noting the fact that, in the first case, the children were born in Germany and, in the latter case, the child was born in the United States?

2. If either or both of the adoptions are proper, do the facts of citizenship have any bearing upon the rights of inheritance on the part of the adopted children?"

It is noted that you desire to know whether a valid adoption may be had of (a) a minor child born in a foreign country whose father is not a citizen of the United States; and (b) a minor child born in the United States, whose father is not a citizen of the United States.

Adoption of a minor child is provided for by section 8024 G. C. et seq. Section 8024 G. C. reads as follows:

"Any proper person not married, or a husband and wife jointly, may petition the probate court of their proper county, or the probate court of the county in which the child resides, for leave to adopt a minor child not theirs by birth, and for a change of the name of such child. A written consent must be given to such adoption by the child, if of age of fourteen years, and by each of his or her living parents, who is not hopelessly insane, intemperate, or has not abandoned such child, or if there are no such parents, or if the parents are unknown, or have abandoned the child, or if they are hopelessly insane or intemperate, then by the legal guardian, or if there is no such guardian, then by a suitable person appointed by the court to act in the proceedings as the next friends of the child."

The effect of an order of adoption once made is set forth in sections 8029 and 8030 G. C., which provide:

"Sec. 8029. When the foregoing provisions are complied with, if the court is satisfied of the ability of the petitioner to bring up and educate

the child properly, having reference to the degree and condition of its parents, and the fitness and propriety of such adoption, it shall make an order setting forth the facts, and declaring that, from that date, to all legal intents and purposes, such child is the child of the petitioner, and that its name is thereby changed."

"Sec. 8030. The natural parents, except when such child is adopted under the provisions of sections eighty hundred and twenty-six and eighty hundred and twenty-seven, by such order shall be divested of all legal rights and obligations in respect to the child, and it be free from all legal obligations of obedience and maintenance in respect to them. Such child shall be the child and legal heir of the person so adopting him or her, entitled to all the rights and privileges and subject to all the obligations of a child of such person begotten in lawful wedlock. But on the decease of such person and the subsequent decease of such adopted child without issue, the property of such adopting parent shall descend to his or her next kin, and not to the next kin of such adopted child."

No statutory provision has been found which requires, as a condition of the adoption of a minor child, either that said child be a citizen of the United States, or that its natural parents, or either of them, be citizens. On the contrary, domicile, rather than citizenship, seems to be the basis of adoption proceedings. The conclusion is therefore reached that both of the adoptions referred to in your inquiry are, in so far as the minor's condition of citizenship in the United States is concerned, valid.

Your next question is whether "the facts of citizenship have any bearing upon the rights of inheritance on the part of the adopted children." By "rights of inheritance" you mean, it is presumed, the rights which the adopted minor has under the laws of Ohio to succeed to property as the legal heir of the person who adopted him or her.

Your attention is called to section 8589 G. C., which says:

"No person who is capable of inheriting shall be deprived of the inheritance by reason of any of his ancestors having been aliens. *Aliens may hold, possess and enjoy lands, tenements, and hereditaments, within this state, either by descent, devise, gift or purchase as fully and completely as any citizen of the United States or this state can do.*"

By reason of the section just quoted aliens stand on the same footing with citizens of the United States as far as the right under the laws of Ohio to inherit property is concerned. Your second question is therefore answered in the negative.

Respectfully,

JOHN G. PRICE,  
*Attorney-General.*