

The release of the mortgage shown at section 8 of the first part of the abstract is in defective form, but as the note secured by the mortgage has been long past due, no action could be maintained upon same. The release shown at section 14 is also defective but shows that the notes secured by the mortgage were undoubtedly paid.

Attention is directed to the restrictions in the conveyance shown at section 1 of the last continuation, wherein are found restrictions for a period of twenty-five years against the use of the premises for the erection of any buildings to be used for slaughter houses and the killing of animals, or the use of said premises for the sale of intoxicating liquors or malt beverages.

The abstract states no examination has been made in the United States District or Circuit Courts, nor in any subdivision thereof.

Taxes for the year 1923, although as yet undetermined, are a lien against the premises.

It is suggested that the proper execution of a general warranty deed by George H. Bangham and wife, if married, will be sufficient to convey the title to said premises to the State of Ohio when properly delivered.

Attention is also directed to the necessity of the proper certificate of the Director of Finance to the effect that there are unincumbered balances legally appropriated sufficient to cover the purchase price before the purchase can be consummated.

The abstract submitted is herewith returned.

Respectfully,

C. C. CRABBE,

*Attorney General.*

709.

ASSISTANT PROBATION OFFICERS—COMPENSATION NOT TO EXCEED TWENTY-FOUR HUNDRED DOLLARS—SECTION 1662 G. C. CONSTRUED.

COLUMBUS, OHIO, September 6, 1923.

SYLLABUS:

*Under the provisions of section 1662 of the General Code as amended April 27, 1923, assistant probation officers may each receive compensation not exceeding twenty-four hundred dollars per annum.*

HON. JESSE H. HAMILTON, *Probate Judge, Lima, Ohio.*

DEAR SIR:—You recently submitted to this department the letter following:

“The last legislature amends section 1662 of the General Code, providing for the compensation of the probation officer, and that also increases the salary of the chief probation office which reads as follows:

‘But the compensation of the chief probation officer shall not exceed \$4,000.00 per annum, and that of the assistants shall not exceed \$2,400.00 per annum.’

You will also notice that the particular section reads that one of such officers shall be known as chief probation officer, and there may be one or more assistants. Such chief probation officer and assistants shall receive such compensation as the judge appointing them may designate at the time of appointing.

Now what I desire to know, is can the assistants receive \$2,400.00 each, or is the combined salary of all of the assistants not to exceed \$2,400.00 per annum."

The statutes in regard to probation officers have frequently been amended.

Probation officers were originally provided for in Senate Bill No. 142, passed May 1, 1902, found in Vol. 95, O. L. p. 785. Under this law said officers were to serve without compensation.

This act was amended May 5, 1904, by section 6 of Senate Bill No. 40, 97 O. L. page 563. The amended section then provided that the chief probation officer should receive \$4.00 per day; the first assistant (interpreter) \$3.00 per day and second assistant \$3.00 per day.

The next amendment passed April 16, 1906, Senate Bill No. 118, Vol. 98 O. L. p. 314, provided that the chief probation officer should receive not more than \$1,500 per annum, the first assistant \$1,000 per annum and the second assistant \$1,000 per annum.

Under the provisions of section 22 of Senate Bill No. 413 passed April 24, 1908, 99 O. L. p. 197, the maximum compensation of the chief probation officer was \$2,500 per annum, the first assistant was \$1,200 and the second and third assistants \$1,000 per annum, "to each, payable monthly."

The judge might appoint other probation officers with or without compensation.

This act was amended May 13, 1913, by the passage of Senate Bill No. 18-- Section 1662 of the General Code, 103 O. L. page 874.

Section 1662 G. C. as originally enacted fixed the maximum compensation of the chief at \$2,500, first assistant at \$1,200, of the second and third assistants at \$1,000 per annum, "each payable monthly."

Section 1662 was again amended March 14, 1917, by the enactment of House Bill No. 19, 107 O. L. page 19, which provided as follows:

"\* \* \* but the compensation of the chief probation officer shall not exceed three thousand dollars per annum and that of the assistants shall not exceed fifteen hundred dollars per annum."

By the enactment, June 9, 1919, of House Bill No. 372, 108 O. L. pt. 1, page 692, section 1662 was amended to read in part as follows:

"\* \* \* but the compensation of the chief probation officer shall not exceed three thousand dollars per annum and that of the assistant shall not exceed eighteen hundred dollars per annum."

On January 29, 1920, section 1662 was again amended by the passage of House Bill No. 686, 108 O. L. pt. 2, p. 1164. The compensation was made the same; but there was inserted the provision following:

"Provided, however, that such compensation may be increased or decreased at any time by said judge."

Summarizing these various provisions in regard to compensation, it is seen that:

First. Originally, probation officers were to serve without compensation.

Second. It was provided by amendment that, the chief was to receive \$4.00 per day; the first assistant was to receive \$3.00 per day, and the second assistant \$3.00 per day.

Third. The compensation was next increased so that the chief officer was to receive a maximum of \$1,500 per annum, the first assistant \$1,000 per annum and the second assistant \$1,000 per annum.

Fourth. The next amendment provided that the chief officer was to be paid a maximum compensation of \$2,500 per annum, the first assistant \$1,200 and the second and third assistants were to receive maximum compensation of \$1,000, to each, payable monthly.

Fifth. The chief was to receive a maximum compensation of \$3,000 and the assistants not to exceed fifteen hundred dollars per annum.

Sixth. It was next provided that the compensation of the assistant officers should not exceed eighteen hundred dollars per annum.

Seventh. The last amendment provides that the chief officer may receive a maximum annual compensation of \$4,000 and the assistants \$2,400.

It is observed from the foregoing summary that the compensation of probation officers has been gradually increased.

The second, third and fourth amendments specifically state the maximum amount that each officer may receive.

In the fourth amendment, the compensation of the chief officer was increased from \$1,500 to \$2,500, and three probation officers were provided for; the first to receive a maximum of \$1,200, and each assistant \$1,000; or a total of \$3,200.

In the fifth amendment, the compensation of the chief officer was increased to a maximum of \$3,000, and it was further provided as follows:

“\* \* \* and that of the assistants shall not exceed fifteen hundred dollars per annum.”

As amended April 27, 1923, by House Bill No. 373, section 1662 of the General Code now reads as follows:

“The judge designated to exercise jurisdiction may appoint one or more discreet persons of good moral character, one or more of whom may be a woman, to serve as probation officers, during the pleasure of the judge. One of such officers shall be known as chief probation officer and there may be one or more assistants. Such chief probation officer and assistants shall receive such compensation as the judge appointing them may designate at the time of the appointment; provided, however, that such compensation may be increased or decreased at any time by said judge, but the compensation of the chief probation officer shall not exceed four thousand dollars per annum and that of the assistants shall not exceed twenty-four hundred dollars per annum. The judge may appoint other probation officers, with or without compensation, when the interests of the county require it.”

Your inquiry is as follows:

“Can the assistants receive \$2,400 each, or is the combined salary of all of the assistants not to exceed \$2,400.00 per annum?”

Blackstone says:

“The most universal and effectual way of discovering the true meaning of a law, when the words are dubious, is by considering the reason and spirit of it, or the cause which moved the legislature to enact it.” 1 Blackstone's Comm. 61.

Black, on Interpretation of Laws, at page 36, says:

"If the language of the statute is ambiguous, or lacks precision, or is fairly susceptible of two or more interpretations, the intended meaning of it must be sought by the aid of all pertinent and admissible considerations."

And at page 8, he says:

"The true object of all interpretations is to ascertain the meaning and will of the lawmaking body, to the end that it may be enforced."

Some of the considerations which are pertinent and admissible are as follows:

1. The legislature in several previous amendments specifically stated that compensation prescribed was payable to each assistant probation officer.

2. The first time that language similar to that in the last amendment in regard to probation officers was used, was in the fifth amendment which was passed in 1917, and reads as follows:

"\* \* \* but the compensation of the chief probation officer shall not exceed fifteen hundred dollars per annum."

In the amendment previous to this, passed in 1913, the legislature provided that the first assistant should receive \$1,200 and the second and third assistants \$1,000 each, or a total for assistants of \$3,200. It seems unreasonable to interpret either this language or the intention of the legislature as reducing this combined compensation from \$3,200 to \$1,500; but a fairer interpretation would be that the legislature intended the \$1,500 to be the maximum sum payable to each, and considering the continued increasing of compensation of probation officers, as provided in the foregoing amendments, and the great increase in the volume of business in the juvenile courts, it certainly cannot be maintained that the legislature intended to provide that the compensation of \$1,500 was to cover the combined annual compensation of all of the assistant probation officers. Evidently the "reason and spirit" of the law require that this language be so interpreted as to read \$1,500 to each.

Since "the true object of all interpretation is to ascertain the meaning and will of the law-making body, to the end that it may be enforced," it is apparent that this interpretation must prevail, as otherwise the juvenile courts would be unable to secure sufficient, competent, and efficient assistants, especially in the larger counties where it is necessary for the juvenile judges to appoint many assistant probation officers.

I am not unaware of the provision in the new amendment which reads as follows:

"The judge may appoint other probation officers, with or without compensation, when the interests of the county require it;"

But this same provision was in the amendments of 1908 and 1913 when said amendments specifically provided the amount each officer should receive, and is evidently intended to provide for temporary emergencies, and not for the regularly appointed assistant probation officers.

The provision in the amendment of April 27, 1923, is as follows:

"\* \* \* the compensation of the chief probation officer shall not exceed four thousand dollars per annum and that of the assistants shall not exceed twenty-four hundred dollars per annum. \* \* \*"

This amendment changed the compensation to assistant probation officers from \$1,800 to \$2,400 per annum, and the language used is identical with the amendment in which the compensation was fixed at \$1,500, except as to the amount.

If it be admitted that the language used in this amendment "is ambiguous, or lacks precision, or is fairly susceptible of two or more interpretations," it is believed that the legislature, having in mind the continuous trend of legislation in increasing the compensation of probation officers, and knowing the vast amount of business now transacted by the juvenile courts, and that it would be impossible to secure sufficient competent officers, unless they increased the compensation, fully intended to enact and did, in effect, enact that each assistant probation officer should receive annual compensation not to exceed \$2,400, and you are advised that this is the opinion of this department.

Respectfully,

C. C. CRABBE,  
*Attorney General.*

710.

DOW—AIKEN TAX—LAW RELATIVE TO ASSESSMENT AND PENALTY  
FOR ILLEGAL TRAFFIC IN INTOXICATING LIQUORS—HOW LEV-  
IES SHALL BE MADE AND COLLECTED—PRIORITY OF LIENS.

SYLLABUS:

1. *Levy may be made on any goods and chattels owned by a person engaged in trafficking in spirituous, vinous, malt or other intoxicating liquors wherever found in the county.*
2. *Or upon the bar, fixtures, furniture, liquors, leaschold and other goods and chattels used in carrying on such business.*
3. *Upon the real estate whereon the traffic is conducted.*
4. *Any balance due after levy on chattels, as herein set forth, may be made a lien on such real estate and collected as other taxes.*
5. *Such levy cannot be made a lien on real estate, owned by person trafficking in intoxicating liquors, not used in such business, there being no provision by statute therefor.*
6. *If levy is made on real estate leased by a person engaged in such traffic, the owner thereof may defend against such levy by injunction, providing he can show that he had no knowledge of and did not assent to such sales by his tenant.*
7. *Before House Bill No. 384 went into effect, such tax was a lien prior to mortgage liens on real estate upon which such tax had been levied. Such bill, how ever, governs priority of real estate liens after June 18, 1923.*
8. *No property upon which the Aiken tax has been properly levied is exempt from such tax lien.*