

ing home for aged" includes any "building, structure, institution or other place for the *reception, accommodation, care or treatment of three or more inmates, aged sick, infirm, convalescent, invalid, feeble-minded, mentally ill, incompetent, decrepit, blind, disabled, injured, infected or chronically ill person, drug addict, dipsomaniac or inebriate, and for which reception, accommodation, care or treatment a charge is made.*"

It must be further noticed that the above language is in the disjunctive as applied to reception, accommodation, care or treatment, and not in the conjunctive, and for this reason any one of the terms above mentioned comes within the purview of the statute. These words are sufficient to cover and include board, room or lodging, provided a charge is made therefor.

Therefore, it is my opinion that if any building, structure, institution or other place is used for the reception, accommodation, care or treatment of three or more inmates, aged sick, infirm, convalescent, invalid, feeble-minded, mentally ill, incompetent, decrepit, blind, disabled, injured, infected or chronically ill person, drug addict, dipsomaniac or inebriate, and a charge is made for either the reception, accommodation, care or treatment of such person, or persons, the same comes within the meaning and purview of Section 1, Chapter 158, Acts 1943, regardless of whether nursing facilities are furnished or not furnished.

INDIANA STALLION ENROLLMENT BOARD: Regarding validity of adoption rule recognizing Palomino Stallions. Outlining procedure therefor.

January 10, 1944.

Opinion No. 3

Mr. R. B. Cooley, Secretary,
Indiana Stallion Enrollment Board,
c/o Purdue University,
West Lafayette, Indiana.

Dear Mr. Cooley:

Your letter of January 3, 1944, received in which you request an opinion as to whether or not the Indiana Stallion Enrollment Board has authority to recognize as a standard

breed, a breed of Palomino Stallions registered in the Palomino Horse Breeders of America, Inc., of Mineral Wells, Texas. You also desire information as to the procedure you should follow in designating such new breed of horses as a standard breed recognized by your board.

I wish to advise that Section 16-903, Burns 1933, being Sec. 1, Ch. 195, Acts of 1921, gives the following authority to your board:

“* * *; to make all necessary rules and regulations and to perform such other duties as may be necessary to carry out the provisions of this act: Provided, That said board shall issue no certificate of enrollment for any stallion or jack after December 31, 1921, that is not recorded in one of the pedigree register associations, societies or companies provided for in section 4 (Sec. 16-904) of this act. * * *”

Section 16-904, Burns 1933, being Sec. 4 of the aforesaid Act, as amended, being Sec. 1, Ch. 32, Acts of 1933, provides in part as follows:

“* * * The stallion enrollment board shall use for its standard for action in determining the purity or impurity of the breeding of stallions, the stud books and signatures of the proper officers of the following American horse pedigree register associations, societies, or companies, *and such others as may from time to time be designated by the board:* * * *” (Said Section thereafter sets out a number of recognized pedigree associations.)

In the case of *Wallace v. Dohner* (1929), 89 Ind. App. 416, in which case the State Department of Conservation designated certain land as infested with the “European Corn Borer,” and ordered the destruction of the crops on said land in order to prevent the spread of such insects to other crops, the court, in holding that the making of rules by said Department of Conservation, and the action of the Department, was legal under the power delegated to it by the statutes, said on page 420 of the opinion:

“Courts have uniformly held, and the law is well settled, that valid rules and regulations, when adopted

by an administrative body in accordance with the provisions of the act by which the administrative body was created, are, in effect, a part of the statute. Chicago, etc., R. Co. v. People (1907), 136 Ill. App. 2. However, a rule, to be valid, must be reasonable and within the authority delegated by the statute."

Also see:

Blue v. Beach (1900), 155 Ind. 121, 130, 131.

Under the above authorities it is my opinion your board has authority to designate the Palomino Horse Breeders of America, Inc., of Mineral Wells, Texas, as a standard pedigree register association.

This must be done by official action by your board in a regular meeting, or a special meeting, called for that purpose. After this is done, it would then be proper for you to issue a certificate of enrollment for any Palomino Stallion recorded by said association as a pedigreed stallion.

Attention is called to Section 60-1501, Burns' 1943 Supplement, being Sec. 1, Ch. 213, Acts of 1943, which provides as follows:

"It shall be the duty of every officer, board or commission, who may have been or hereafter may be clothed with any power to make, promulgate, adopt or enforce rules or regulations having the force and effect of law to submit to the attorney-general for approval as to legality copies of every such rule or regulation hereafter adopted by him or it and when approved by the governor and the attorney-general, said officer, board and commission shall file copies thereof with the secretary of state and the legislative bureau. No such rule or regulation hereafter made, promulgated or adopted shall be effective until after compliance with the provisions of this section. Any rule or regulation, filed as required by this section, shall be admissible as evidence in any court proceeding, upon certification by the secretary of state. Nothing in this act shall relieve any officer, board or commission of any legal requirement as to the publication or other notice of the adoption or promulgation of such rules and regulations."

Therefore, if your board enacts such a rule, it must comply with the above statute by having the same approved by the Attorney-General and the Governor and copies thereof filed with the Secretary of State and with the Legislative Bureau before same can be considered to be in full force and effect.

TAX COMMISSIONERS, STATE BOARD OF: Tax lien is extinguished upon purchase of land by state normal schools but personal liability of vendor remains.

January 12, 1944.

Opinion No. 4

Hon. Charles H. Bedwell, Chairman,
State Board of Tax Commissioners,
State House,
Indianapolis, Indiana.

Dear Sir:

I have your letter of December 7th which reads as follows:

“One of the state colleges owned and operated by the State of Indiana, acquired certain real estate subsequent to March 1, 1943. In the deeds under which the real estate was acquired, there was inserted a provision by which the state college in question assumed and agreed to pay taxes for the year 1943 that are payable in the year 1944.

“Does this Board have the legal right to relieve such college from payment of taxes for the year 1943 that are payable in the year 1944?”

I assume that the college mentioned is one of the state normal schools, although the result reached herein should be the same as to the state universities. The Constitution of Indiana by Section 1 of Article 8 imposes upon the General Assembly the duty of establishing a general and uniform system of Common Schools. By Section 1 of Chapter 36 of the Acts of 1865 the first state normal school was established for the purpose of preparing teachers to teach in the common schools. These preliminary observations are made for the reason that it appears to me that in the establishment and