

court properly held that contract void for lack of the certificate. As I interpret the facts set forth in your question, there would be no binding obligation upon the village to pay any amount whatsoever, either a reasonable amount or otherwise. If such should, however, be its construction, then the contract would be void in the absence of a certificate showing that the funds are in the treasury and in process of collection and properly appropriated for the purpose. You will observe that the certificate requires in each instance a showing that there has been a proper appropriation. This would necessitate in each instance an appropriation either in the ordinance authorizing the employment or in a separate ordinance prior to the execution of the contract of employment. I might further point out that, a certificate having been attached to the original contract of employment, there would be no necessity for a separate certificate with respect to the individual monthly payment.

This opinion is limited strictly to the inquiry which you have made. In each instance you have stated that an actual contract of employment was entered into between the attorney and the village. As I have before stated, the broad language of Section 4220 of the General Code apparently authorizes the employment of legal counsel by other methods than the execution of a definite contract for a specific sum of money for legal services. For instance, as is indicated in the note to Section 4220 in Ellis' Ohio Municipal Code, the position of the village solicitor might be created and an appointment made. This would, in my opinion, differ essentially from the situation where an express contract is made, and I am not passing upon the necessity of a fiscal officer's certificate under such circumstances.

Respectfully,
 EDWARD C. TURNER,
Attorney General.

1659.

AUTOMOBILE—BILL OF SALE—DEVOLUTION OF TITLE TO AS PROPERTY OF DECEASED INTESTATE.

SYLLABUS:

The devolution of the title to an automobile belonging to the estate of a deceased person to a distributee of such estate, can be had only through proceedings in the administration of such estate. Upon such devolution of title the distributee is entitled to receive from the administrator or executor a bill of sale of such automobile, as provided for in Section 6310-8, General Code.

COLUMBUS, OHIO, February 2, 1928.

HON. JOHN P. ROGERS, *Prosecuting Attorney, Hamilton, Ohio.*

DEAR SIR:—This is to acknowledge receipt of your recent communication to this department, as follows:

“Since the law under which license tags are obtained requires the presentation of a Bill of Sale duly registered, the Clerk of Common Pleas Court of Butler County, Ohio, has had several questions come up on which we would like to have a ruling.

For instance, a case where a man has died owning an automobile with the Bill of Sale in his name, leaving a widow and two grown children, both married, his estate consisting solely of this automobile, leaving no real estate or any other personal property as the household goods already belonged to this widow and the two children being willing to sign a waiver, waiving any interest they might have in said automobile to their mother. What should be done in order that this woman might be able to obtain a Bill of Sale in her name, so as to get license plates? The husband in the above case died without a will and the value of the automobile is less than \$100.00 and there was no administration of his estate in the Probate Court.

Another case similar to the above, where a woman dies intestate owning an automobile, leaving no children as heirs, the husband surviving. What can be done in order for this husband to obtain a Bill of Sale in order to get license plates for the said automobile?"

Section 6310-8, General Code, so far as pertinent to the consideration of the questions presented in your communication, provides as follows:

"Each buyer, purchaser, transferee or person receiving or obtaining a 'used motor vehicle', shall obtain from the owner, vendor or person conveying or transferring such 'used motor vehicle', at or before such sale, transfer, conveyance or delivery, the bill of sale in duplicate as provided for in Section 6310-7 and verified as provided for in Section 6310-9. In case of transfer of ownership of a 'motor vehicle' or a 'used motor vehicle' by inheritance, devise or bequest, * * * or otherwise than by the voluntary act of the owner, the 'bill of sale' transferring such title as required by this chapter shall be signed by the executor, administrator, * * * or other representative, or successor in interest of the owner in lieu of such owner, and delivered to the transferee together with all former 'bills of sale' or statements of ownership, and shall set forth in addition to such other information as is required by law to be contained in the bill of sale, the special facts in the premises."

In the case of *McBride vs. Vance*, 73 O. S. 258, it was held that "the personal property of a deceased person does not vest in his heirs, but is in abeyance until administration is granted and is then vested in the administrator by relation from the time of death." It thus appears that the devolution of the title of the automobile here in question to a distributee of the estate of a deceased person, who prior to his death owned such automobile, can be had only by proceedings in the administration of such estate. Under the provisions of Section 8592, General Code, the widow or widower of a deceased person, under the facts stated in connection with your first question, is entitled to one-half of the first four hundred dollars and to one-third of the remainder of the personal property subject to distribution. Section 10840, General Code, read in connection with Section 10839, General Code, provides that where the debts of the estate are all paid, or assets of the estate are set aside for the purpose of paying such debts, in the manner provided in said section, the administrator or executor, by order of the Probate Court, with the approval, assent and agreement of the distributees, may pay over in kind all or any part of the assets in his hands to such of the distributees as are willing to receive them. Under the provisions of said Section 10840 of the General Code, the administrator, on his application and the written consent of the two

children of the deceased person referred to in your communication, may obtain an order of the Probate Court authorizing and directing him to turn said automobile over to the widow as a part of her distributive share of said estate. He can then execute and deliver to her the Bill of Sale in duplicate, provided for by Section 6310-8, General Code, above quoted.

With respect to the first question, it is apparent that said automobile may also be set off to the widow by the appraisers appointed to make the inventory and appraisal of the estate as a part of her allowance for a year's support. (Section 10656 of the General Code.)

The procedure first above outlined in this opinion is likewise applicable to your second question and affords a sufficient answer to the same.

Respectfully,
EDWARD C. TURNER,
Attorney General.

1660.

APPROVAL, FINAL RESOLUTIONS ON ROAD IMPROVEMENTS IN
JEFFERSON COUNTY.

COLUMBUS, OHIO, February 2, 1928.

HON. GEORGE F. SCHLESINGER, *Director, Department of Highways and Public Works,*
Columbus, Ohio.

1661.

APPROVAL, FINAL RESOLUTIONS ON ROAD IMPROVEMENTS IN
WARREN COUNTY.

COLUMBUS, OHIO, February 2, 1928.

HON. GEORGE F. SCHLESINGER, *Director, Department of Highways and Public Works,*
Columbus, Ohio.

1662.

APPROVAL, FINAL RESOLUTIONS ON ROAD IMPROVEMENTS IN
WYANDOT COUNTY.

COLUMBUS, OHIO, February 2, 1928.

HON. GEORGE F. SCHLESINGER, *Director, Department of Highways and Public Works,*
Columbus, Ohio.