

thirty-nine and seven-tenths (139.7) feet to the center of said Mohawk Road; thence north fourteen degrees west (N. 14° West) along the center line of the said road six hundred sixty-one and five-tenths (661.5) feet to the place of beginning; containing three and seventy nine (3.79) one hundredths acres, more or less."

On examination it is believed that said abstract shows sufficient merchantable title to be in the name of the Mohawk Golf Club free from encumbrances excepting taxes for the year 1928 in the amount of \$154.24 which are unpaid and a lien. Inasmuch as it is stated in your communication that this property is to be donated to the State, the certificate of the Director of Finance and the consent of the Controlling Board will be unnecessary. However, your attention is directed to the fact that in the event your department should determine to pay the taxes above mentioned this would involve a consideration and under such circumstances the certificate of the Director of Finance and the consent of the Controlling Board would be necessary.

Two deeds have been submitted, one executed by the Mohawk Golf Club, conveying said premises to Charles S. Seitz and Alice B. Seitz, dated December 6, 1928. The other is one in which Charles S. Seitz and Alice B. Seitz conveyed said premises to the State of Ohio. Said deeds are in proper legal form and in my opinion are sufficient to convey said premises to the State when properly delivered.

It may be pointed out that in both of said deeds the title is warranted to be free from encumbrances which would require the grantors in both instances to pay the taxes upon said premises.

It may further be pointed out that under former opinions of this department the taxes are a personal obligation against the owner of the lands at the time they accrued. While undoubtedly a tax lien cannot be enforced against the State, it is believed to be proper for the State in taking the title to property, to arrange for the payment of any taxes that may be a lien, either by paying them itself as a part of the consideration, or requiring them to be paid by the owner of the land to the end that an injustice may not be done to the taxing subdivision in which the property is situated.

In view of the foregoing, it is believed that your department will be able to adjust the tax lien in accordance with its understanding with the owners of said land whatever the same may be.

Said abstract and deeds are being returned herewith.

Respectfully,
EDWARD C. TURNER,
Attorney General.

3068.

LICENSE—MOTOR VEHICLES—FOREIGN GOVERNMENT CONSULS RESIDING IN OHIO MUST PURCHASE OHIO LICENSE.

SYLLABUS:

Consuls of Foreign Governments stationed in Ohio, are required to procure and pay for a license before they are authorized to operate or drive their motor vehicles upon the public roads or highways of this state.

COLUMBUS, OHIO, December 28, 1928.

HON. CHALMERS R. WILSON, *Commissioner of Motor Vehicles, Columbus, Ohio.*

DEAR SIR:—This will acknowledge receipt of your recent communication which reads:

"I am forwarding herewith a letter from the Consul for Czechoslovak stationed in Cleveland, addressed to the Secretary of State.

In the absence of the Secretary on account of illness the matter has been referred to this office for attention and your opinion is respectfully requested regarding the point in question, i. e., gratis registration of the motor vehicles used by Consuls of Foreign Governments.

The letter from The Czechoslovak Consulate reads as follows :

"Through the Czechoslovak law of July 14, 1927, No. 116, a State Road Fund has been created administered by the Czechoslovak Ministry of Public Works and destined for the upkeep of roads in the Czechoslovak Republic.

The means for this fund are secured through taxation of automobiles but exemption has been provided by the said law for persons enjoying the right of extritoriality, to the Consuls of career and other persons assimilated who if owners of motor cars are free from the above mentioned tax under the condition that they are not Czechoslovak citizens and if the reciprocity is granted.

According to this law the above persons enjoying the right of extritoriality, Consuls of career and other persons assimilated, are given the exemption from the said taxation when applying for same on special blanks at the proper treasury authorities.

The United States Legation in Prague in acknowledging this privilege and in notifying the Czechoslovak Ministry of Foreign Affairs through its note No. 1150 of September 20, 1928, about the granted reciprocity cited the text of the respective answer of the Department of State in Washington, as follows :

'The members of foreign Diplomatic Missions and foreign Consular officers in the District of Columbia are exempt in the District from the payment of personal property taxes on automobiles and other personal property, either tangible or intangible, owned by them. They are furnished identification tags and operator's permits for their automobiles, without charge, provided the applications made therefor bear the seal of the Mission and the seal of the Department of State. It is understood that automobiles bearing District of Columbia tags are permitted to enter the several states without obtaining additional tags. Members of foreign Diplomatic Missions in the United States and foreign consular officers stationed in the District of Columbia are accordingly not required to pay the fees ordinarily charged other owners of automobiles in this country.

In connection with treaty provisions exempting Consular officers from the payment of all taxes, national, provincial, state or municipal, on their personal property, the Department has taken the position that such provisions are properly to be regarded as including within their purview taxes imposed on Consular officers on account of their ownership of automobiles, where it is clear that such taxes are not merely license fees. This privilege, however, in so far as foreign consular officers in the District of Columbia are concerned, is not conditioned upon the existence of treaty provisions.

The tax on the sale of automobiles was repealed in the Revenue Act of 1928.'

This being the status of this question, we have the honor to ask you, Right Honorable Sir, to kindly inform us, whether the officers of this Consulate are entitled to the same reciprocal privilege when acquiring and possessing automobiles in the State of Ohio and what formalities would they have to comply with?"

Section 6291, General Code, reads as follows:

"An annual license tax is hereby levied upon the operation of motor vehicles on the public roads or highways of this state, for the purpose of enforcing and paying the expense of administering the law relative to the registration and operation of such vehicles and of maintaining and repairing public roads, highways and streets. Such tax shall be at the rates specified in this chapter and shall be paid to and collected by the deputy commissioner, at the time of making application for registration as herein provided, and in cases where such deputy commissioner is not county auditor, such monies shall be paid to the county auditor."

This section provides for the levy of an annual *license* tax upon the *operation* of all motor vehicles on the public roads or highways of the state. The enforcement of this law will not violate any treaty exempting Consular officers from the payment of taxes on any personal property owned by such officials.

Section 6292, General Code, provides a schedule of rates to be paid for such motor vehicle license.

Section 6294, General Code, provides that every owner of a motor vehicle which shall be operated or driven upon the public roads or highways of this state, shall before the first day of January of each year, except as otherwise provided, cause to be filed in the office of the commissioner of motor vehicles or a deputy commissioner, a written application for registration for the following year. Said section also provides what information shall be given in said application and that a sworn statement of ownership shall be made.

In the absence of a treaty between the United States and the country represented by the Consul in question exempting such Consul from the payment of license taxes, said Consul is required to procure and pay for the aforesaid license before he is authorized to operate or drive his motor vehicle upon the public roads or highways of this state.

Respectfully,
EDWARD C. TURNER,
Attorney General.

3069.

ELECTION—VILLAGE SCHOOL DISTRICT—ELECTORS RESIDING IN TERRITORY ATTACHED TO VILLAGE FOR SCHOOL PURPOSES—MAY VOTE FOR SCHOOL OFFICERS AND ON SCHOOL QUESTIONS IN PROPER VOTING PLACE IN VILLAGE—DIVISION OF VILLAGE INTO PRECINCTS DISCUSSED.

SYLLABUS:

1. Under the provisions of Section 4711, General Code, electors residing in territory attached to a village school district may vote for school officers and on all school questions at the proper voting place in the village to which the territory is attached.

2. If the village is divided into precincts it is the duty of the board of education of the village school district to make proper assignment of such attached territory to the adjoining precinct or precincts of the village, and to prepare a map showing such assignment of territory.