assessment rates upon the land and, if taken into consideration at all, should affect the value for inheritance tax purposes of the successions to the land. This question is not submitted by the commission and has not been fully considered herein. On the exact point raised by the commission's letter the advice of this department is that the unpaid installments of assessments should not be deducted from the general personal estate of the decedent as debts of that estate.

Respectfully,
JOHN G. PRICE,
Attorney-General.

1864.

SCHOOLS—APPORTIONMENT OF STATE COMMON SCHOOL FUND—PERSONAL SERVICE EXPENSE INCURRED IN TRANSPORTATION OF PUPILS SHALL BE COMPUTED IN SPECIFIC MANNER MENTIONED IN SECTION 7787 G. C.—WHAT BOARD OF EDUCATION NOT AUTHORIZED TO COMPUTE IN COST OF TRANSPORTATION.

In the apportionment of the state common school fund, the personal service expense incurred in transporting pupils shall be computed in the specific manner mentioned in section 7787 G. C., and a board of education is not authorized to compute in the cost of transportation in a school district, such additional items as depreciation, repairs, replacement, storage, taxes, insurance or interest on investment, such personal service expense being limited to the things only which appear in the statute.

COLUMBUS, OHIO, February 21, 1921.

HON. ALLAN G. AIGLER, *Prosecuting Attorney, Norwalk, Ohio.*

DEAR SIR:—Acknowledgment is made of the receipt of your request for the opinion of this department on the statement of facts submitted to you by the county superintendent of schools of your county, such statement reading as follows:

> "This office kindly requests of you the opinion of the Attorney-General of the state of Ohio, upon section 7787, General Code of Ohio, as amended, page 1311, Ohio Laws, 1919, which reads in part as follows:
>
> 'The personal service expense incurred in transporting pupils shall be computed as follows:
>
> 1. In case the district owns the vehicle of transportation and the means of locomotion, the entire compensation paid to the driver shall constitute such personal service expense attributable to such driver.
>
> 2. In case the district owns the vehicle of transportation, but not the means of locomotion, one-half the amount paid for transporting pupils in such vehicle shall constitute such personal service expense.
>
> 3. In case the district owns neither the vehicle nor the means of locomotion, one-third the amount paid for transporting pupils shall constitute such expense.'
>
> (a) What constitutes 'personal service' in each of the above paragraphs?
>
> (b) In paragraph '3' above, 'personal service' certainly includes in its sum a combination of such items as personal and locomotion wages, depreciation, repairs, replacements, storage, taxes, insurance, interest upon in-

vestments, etc., as applied to the vehicle of transportation. Does it not therefore consistently follow that said named items may justly be included in computing 'the entire compensation paid to the driver', in paragraph '1' above, and in computing 'one-half the amount paid for transporting pupils in such vehicle', in paragraph '2' above?"

The question submitted grows out of the manner of apportionment of the state common school fund, as provided in House Bill 615, passed by the last General Assembly, appearing at page 1323, 108 Ohio Laws, Part II. Section 7600 G. C. of such act says in part:

"* * * The state common school fund shall be apportioned to each school district and part of district within the county on the basis of the number of teachers and other educational employes employed therein, *and the expense of transporting pupils* as shown by the reports required by law and the balance according to the ratio which the aggregate days of attendance of pupils in such districts bears to the aggregate days of attendance of pupils in the entire county. * * * That (annual distribution) attributable to expense of transportation of pupils shall be thirty-seven and one-half per centum *of the personal service expense incurred in such transportation.*"

Relative to the reports required by law, mentioned in section 7600, section 7787, in its first paragraph, reads as follows:

"The board of education of each district shall make a report to the county auditor, on or before the first day of August in each year, containing a statement of the receipts and expenditures of the board, the number of schools sustained, including trade or technical schools, extension schools, night schools, summer schools, and other special school activities, the length of time they are sustained, the enrollment of pupils, the average monthly enrollment, and average daily attendance, the aggregate days of attendance of pupils, the number and qualifications of teachers and the number of other school employes mentioned in section seven thousand six hundred of the General Code employed, and their salaries, the number of school houses and school rooms, the personal service expense incurred in transporting pupils, and such other items as the superintendent of public instruction requires."

Then follows in such section the method to be used in computing such transportation charges, as set forth and quoted in the statement of facts given above. You desire to know what constitutes "personal service" in each of the above paragraphs marked 1, 2 and 3, and appearing in section 7787 G. C.

It appears in the enacting of House Bill 615, a new revenue measure, providing for the maintenance of the public schools of the state, it was desired that in view of the fact that transportation of pupils to consolidated and centralized schools had lessened the number of used school houses and thereby also lessened the number of teachers required, the state common school fund should be used in part toward such transportation expense incurred. It was necessary to select some method of computation in arriving at such proposed relief in assisting on transportation expense, and thus the provisions appearing in section 7787 occurred. This act itself creates an item to be known as personal service expense, and then proceeds in the three paragraphs indicated in section 7787 to define what shall constitute such per-

sonal service expense in each of the three kinds of cases. In other words, after creating the item called "personal service expense," the General Assembly, in 7787 G. C., gives the definition by statute as to what shall constitute such personal service expense under either of the three conditions that could obtain. Thus in paragraph 1 the law is clear that *"the entire compensation paid* to the driver shall constitute such personal service expense"; again, in paragraph 2 *"one-half the amount* paid for transporting pupils in such vehicle shall constitute such personal service expense"; again, in paragraph 3, *"one-third the amount* paid for transporting pupils shall constitute such (personal service) expense."

Thus we find that the statute itself has placed the definition on what shall constitute personal service expense in computing school transportation and no other definition or construction of personal service expense, as regards this act, would apply, since the General Assembly has limited in very clear terms just exactly what it means. Inasmuch as the statute itself defines what "personal service" expense shall be, no other definition as to the "personal service," causing such expense would apply. Rather does the General Assembly intend that the computation shall be on "amount paid" in exact dollars and cents, as appears from the records and reports required to be filed by the board of education in its transmission of facts to the county auditor. (Sec. 7787.)

It is true, as indicated in the closing paragraph of the letter of the county superintendent that in the computation in the third paragraph, that is, those cases where the district owns neither the vehicle or the means of locomotion, that the amount paid for transporting pupils would naturally include in practice at least "depreciation, repairs, replacement, storage, taxes, insurance and interest upon investment," because in making his bid to the board of education to transport the pupils on a given route, the bidder would figure these things in as his personal expense in order to arrive at the figure which would constitute his bid, which figure, if accepted by the board of education, would be "the amount paid for transporting pupils" on that particular route. But even under paragraph 3, as in the case immediately under discussion, the board of education does not take any official cognizance of these things which go into the figure furnished by the school driver or contractor, for all the board considers is the amount of the bid, which, if accepted, becomes the amount paid. In other words, while the driver or contractor, in a case where the district owned neither the vehicle or the means of locomotion, would arrive at a price at which he could perform the work, because he individually had figured these things in his bid, it does not follow that the board of education has any knowledge of what such depreciation, or repairs, or taxes, or insurance, or interest upon investments, might be. The argument of the superintendent seems to be that because these things entered into, in an indirect way, the transactions which follow in a case where the district owns neither the vehicle or the means of locomotion, and the driver having the contract has figured all of these things in his bid, the same rule of allowance for these particular features would also apply to those cases mentioned in paragraph 1 and paragraph 2; that is, first where the district owned the vehicle and the means of locomotion, or, in other words, everything necessary except the driving of the same, and, in the second case, where the district owned the vehicle of transportation but not the means of locomotion. The result of this would be that the district would receive a larger fraction of the state common school fund than it would if the computation was upon exact amounts paid out. It is not believed that it was the intention of the General Assembly that these things, like depreciation, repairs, replacement, taxes, insurance, interest on investment, etc., were to be used at all in arriving at the cost of transportation in a given district, because it is perfectly apparent at once the amount of auditing and figuring which would result. On the other hand, the

law seems to have attempted to state in the most direct terms that the computation shall be directly on amounts paid, that is, in cases under paragraph 1 "the entire compensation paid to the driver", and in paragraph 2, "one-half the amount paid for transporting pupils", and in paragraph 3, "one-third the amount paid for transporting pupils." In either of the three cases mentioned, where the district owns all of the means of transportation, where it owns the vehicle and not the means of locomotion, or where it owns neither the vehicle or means of locomotion, the intent of the law means "amount paid" for transporting pupils; that is, the amount of money actually paid out by the board of education on vouchers issued for services rendered, and it is not possible to read into section 7787 any construction that the apportionment of the state common school fund allowed for transportation of pupils should consider depreciation, repairs, replacement, storage, taxes, insurance or interest upon investments, since the definition of personal service expense is made by statute and is thus limited wholly to those exact things which the statute sets out in its own definition.

Respectfully,
JOHN G. PRICE,
Attorney-General.

1865.

SCHOOLS—HOUSE BILL NO. 592, 108 O. L., 1132, PROVIDING FOR REPLACEMENT FUND DOES NOT CHANGE OR MODIFY PROVISIONS OF SECTION 7603—MONEYS RECEIVED FROM SALE OF SCHOOL PROPERTY UNDER SECTIONS 4756 AND 7730-1 G. C. SHOULD BE PLACED IN CONTINGENT FUND.

The provisions of House Bill No. 592 (*Sec.* 7587-1, 7587-2, 7587-3, 7587-4 *and* 7587-5 *G. C.*, 108 *Ohio Laws, Part II, p.* 1132) *providing for a replacement fund, would not change or modify the provisions of section* 7603 *that moneys received from the sale of school property sold in compliance with sections* 4756 *and* 7730-1 *G. C., should be placed in the contingent fund of the board of education.*

COLUMBUS, OHIO, February 21, 1921.

HON. H. F. BURKET, *Prosecuting Attorney, Findlay, Ohio.*

DEAR SIR:—Acknowledgment is made of the receipt of your request for the opinion of this department upon the following statement of facts:

> "The board of education of Union township sold on the 15th day of January, 1921, five abandoned school houses and grounds pertaining to each. The board of education wants to know whether the money derived from the sale of these school buildings and this real estate should be placed in a building fund or should be placed in a contingent fund for school purposes. Apparently this sale was made under section 7730-1, found in Vol. 108 of the Ohio Laws, Part 2, page 1173."

In considering your question you are advised that nowhere in the existing statutes is there any specific statement as to where money should be placed, where such funds have resulted from the sale of school buildings and grounds. However, your attention is invited to section 7603 G. C., which reads as follows: