

pay the mortgage referred to, which is a lien upon said premises, and the taxes which are also a lien, and you should deduct a sum from the purchase price sufficient to pay said mortgage and taxes.

An examination has also been made of the deed executed by Harry E. Truxall and Mina V. Truxall, his wife, to the state of Ohio, which in my opinion is sufficient to convey the title of Harry E. Truxall to the premises described in tract No. 2 to the state. Said deed warrants the premises to be free from encumbrance except the taxes for the last half of the year 1919. Under the terms of this deed it will be necessary for the state to pay said taxes. Said deed also in the description clause refers to the premises as being subject "to all legal highways." Therefore it may be that this deed does not warrant against the twenty-five foot roadway provisions above referred to in this opinion. Under the provisions of this deed you should retain from the purchase price an amount sufficient to satisfy the mortgage referred to herein, which is a lien upon the premises. You should also retain from said purchase price under the provisions of the deed \$18.69 to pay the taxes and penalties on said premises for the first half of the year 1919.

Respectfully,
 JOHN G. PRICE,
Attorney-General.

1125.

SCHOOLS—WHERE BOARD OF EDUCATION OF RURAL TOWNSHIP DISTRICT SUSPENDS ONE-ROOM ELEMENTARY SCHOOL AND ASSIGNS PUPILS TO SCHOOL MAINTAINED BY STATE NORMAL COLLEGE—WHEN SAID TRANSFER CONSIDERED VALID—EXPENSE HOW PAID—SECTION 7730 G. C. CONSIDERED.

Where the board of education of a rural township district suspends a one-room elementary school and assigns the pupils of the territory to a school maintained by a state normal college, with the approval and consent of the governing powers of said institution, which said school furnishes a proper course of study for such pupils, and the educational advantages are equal to those they would have received had they been assigned to another school and such pupils in being transported to said school are not subject to unreasonable inconvenience or hardship, such an arrangement is a substantial compliance with the requirements of section 7730 G. C. and the expense of said transportation should be borne by said rural district.

COLUMBUS, OHIO, April 2, 1920.

HON. F. B. PEARSON, *Superintendent of Public Instruction, Columbus, Ohio.*

DEAR SIR:—Your letter of recent date is as follows:

"Can a board of education of a township rural school district suspend its one-room elementary school and transport its pupils at the expense of said township rural school district to a school maintained by a state normal college and supported by public funds, the latter being maintained by said state normal college for the purpose of teacher practice work?"

Your inquiry necessitates the consideration of section 7730 G. C., which provides:

"The board of education of any rural or village school district may suspend by resolution temporarily or permanently any or all schools in such village or rural school district because of disadvantageous location or any

other cause, and teachers' contracts shall thereby be terminated after such suspension. * * * Whenever any school is suspended the board of education of the district shall at once provide for the transfer of the pupils residing within the territory of the suspended school to other schools. Upon such suspension the board of education of such village or rural district shall provide for the conveyance of all pupils of legal school age who reside in the territory of the suspended district and who live more than two miles by the nearest traveled highway from the school to which they have been assigned, to a public school in the rural or village district or to a public school in another district. * * *"

It is clear that the statute above quoted authorizes a board of education by resolution to suspend a school at any time for any cause and such a suspension terminates the teacher's contract. It is equally clear that when a school is suspended the board of education must assign the pupils residing in the territory of the suspended school to other schools and provide for the transportation of those who live more than two miles from the school to which they are assigned.

It being apparent that the board of education is fully authorized to suspend a school and transport the pupils of the suspended territory to other schools, the question now is whether or not a school maintained by a state normal college such as you describe, is such a school as the board of education is authorized to assign pupils to, under the provisions of section 7730.

Section 7654 G. C. (107 O. L. 627) provides:

"Each of the state normal schools at Athens, Oxford, Bowling Green, and Kent shall be authorized to arrange with the boards of education of rural districts to assume the management of one-teacher rural schools, or of rural schools having two or more teachers, or both types of rural schools and to maintain such schools as model rural schools. In no case shall there be more than one of each type of such rural schools established in a rural school district nor more than six model rural schools established by any state normal school. Each state normal school which complies with the provisions of this section subject to the approval of the superintendent of public instruction shall receive five hundred dollars annually from the state for each class room of such model schools when vouchers therefor have been approved by the superintendent of public instruction and each of said normal schools shall also be authorized to arrange with the boards of education of village and city school districts to assume the management of all the schools of the district or districts or such part of them as may be necessary to provide adequate facilities for practice teaching by the students of said normal school, and providing the number of rooms for which such appropriation is made does not exceed six for each state normal school."

This statute makes it clear that the legislative intent is that the institutions named in said statute are empowered to arrange for the management of not more than six one-room elementary schools. It is evident that such a school could be maintained at the institution and still be in the district of the pupils assigned thereto. When a school is so managed and maintained, it has the character of a public school and it is believed it is to be regarded as such.

It being clear that the board of education may assign and transport the pupils of a suspended school to other schools of another district, it follows that it may legally assign and transport said pupils to a school maintained by one of the institutions named in section 7654-7, supra. It is evident that such an arrangement

may be a distinct advantage to the pupils and taxpayers of the district and also be beneficial to the state institution in connection with its teachers' training facilities. The burden is cast upon the board of education which suspends a school, to provide adequate advantages to the pupils of a suspended school and it is in view of this end that the statute specifies the method of procedure in the event of a suspension. However, when said board assigns said pupils to a school which provides a course of study suitable for said pupils and affords equal or better opportunities than would be afforded by the assignment of said pupils to another rural school, this is a substantial compliance with the requirements of the law. Undoubtedly under such an arrangement the pupils could not be subjected to any great inconvenience or hardships on account of being transported an unreasonable distance, as compared with the distance they would be transported if assigned to another school, by reason of such an arrangement between the board of education and the state institution.

In conclusion, it is the opinion of this department that if a board of education suspends a one-room elementary school and assigns the pupils of the territory to a school maintained by a state normal college with the approval and consent of the governing powers of said institution, which said school furnishes the proper course of study for such pupils, and affords equal educational advantages to those they would have received had they been assigned to another school, and such pupils in being transported to said school are not subjected to unreasonable inconvenience or hardship, such an arrangement is a substantial compliance with the requirements of section 7730 G. C.

It follows that the transportation of the pupils under such an arrangement should be at the expense of the township rural school district.

Respectfully,

JOHN G. PRICE,

Attorney-General.

1126.

INHERITANCE TAX—BEQUEST TO BISHOP OF CATHOLIC DIOCESE FOR EDUCATION OF CANDIDATES FOR PRIESTHOOD SUBJECT TO TAX—WHEN BEQUEST TO CHURCH AUXILIARY SOCIETY SUBJECT TO TAX—BEQUEST TO RELIGIOUS ORDER FOR RELIEF OF POOR EXEMPT FROM TAX—BEQUEST FOR MASSES FOR REPOSE OF TESTATOR'S SOUL SUBJECT TO TAX.

A bequest to the bishop of a Catholic diocese for the purpose of education of candidates for the priesthood is subject to inheritance tax.

A bequest to a church auxiliary society, the purpose of which society is to beautify the altar of the church, is subject to the inheritance tax, though the society also relieves need and distress among its own members only.

A bequest to a religious order for the relief of the poor is exempt from inheritance taxation.

A bequest for masses for the repose of the testator's soul is subject to the inheritance tax.

COLUMBUS, OHIO, April 3, 1920.

Tax Commission of Ohio, Columbus, Ohio.

GENTLEMEN:—I have your letter of recent date requesting an early opinion upon the following questions:

“M. D. died leaving an estate subject to inheritance tax. Her will contains the following provisions: