of the former act in drawing the latter. The only changes therein made were those noted above. Neither act makes any provision for the reservation of coal, oil, gas or other minerals, or fishing and fowling privileges on said lands.

After the enactment of the act of 1921, above referred to, the then Attorney General was asked his opinion as to whether or not reservations in conveyances of lands under the provisions of this act should be made, as provided by Section 3203-13, General Code. In reply thereto, the Attorney General, as stated in the syllabus of his opinion which is reported in the Opinions of the Attorney General for 1921, at page 662, said:

> "The provisions of Section 3203-13, G. C., have no application to deeds executed under authority of Amended Senate Bill No. 75, 109 O. L. 67, authorizing the surrender of leases for school lands in Homer Township, Morgan County, Ohio, and the purchase of the same in fee simple."

I am not at all convinced that the reasoning of this opinion is sound; that is, it may very well be argued that the language of the special act may be harmonized with the provisions of general law establishing a definite policy to be applied in every conveyance of fee simple title of school and ministerial lands, so that any conveyance of fee simple title in the present case might be made with the reservations hereinbefore enumerated. However that may be, the act here in question, and the one under consideration by the previous Attorney General are indistinguishable. As has been heretofore stated, the present act was apparently drawn by using the language of the earlier one, and it is reasonable to presume that the earlier act was used in the light of the fact that it has received the interpretation placed upon it by the former Attorney General. In view thereof, I feel that a similar construction should be placed upon the present act. I am the more persuaded toward this conclusion by reason of the fact that in the event that the terms of the act should be held not to warrant a conveyance without reservation, any action on the part of state administrative officers taken without making such reservations would be ineffective to convey that which should have been reserved.

Accordingly, in accordance with the doctrine established by the 1921 opinion of the Attorney General, I am of the opinion that deeds of lands made in pursuance of the provisions of Amended Senate Bill No. 95 of the 88th General Assembly should not contain reservations of timber and mineral resources on said lands or of fishing and fowling privileges on the lands.

Respectfully,
GILBERT BETTMAN,
Attorney General.

600.

SOLDIER—HONORABLY DISCHARGED FROM REGULAR ARMY—ADMITTANCE TO SOLDIERS' AND SAILORS' HOME AUTHORIZED.

SYLLABUS:

Where one has served in the regular army of the United States for a period of three years, during which time he devoted full time to his duties under the supervision and direction of superior regular army officers, has been honorably discharged and

has been a resident of the state for a period of one year preceding his application, he may be admitted to the Ohio Soldiers' and Sailors' Home if his physical condition authorizes such admission as set forth in Section 1909 *of the General Code.*

COLUMBUS, OHIO, July 6, 1929.

HON. H. H. GRISWOLD, *Department of Public Welfare, Columbus, Ohio.*

DEAR SIR:—Acknowledgment is made of your recent communication which reads:

> "Section 1909 of the General Code makes provision for admission to the Ohio Soldiers' and Sailors' Home at Sandusky. Application has been made for membership by a former member of Company B, Eleventh United States Infantry, who served in the regular army but who did not serve during any time when there was a state of war.
>
> The applicant has been a citizen of the State of Ohio for more than a year prior to the date of application; is disabled by reason of having lost an arm. Assuming that it is determined that he is not capable of earning his living kindly advise me as to whether he may be admitted to the Home. There seems to have been an impression that the words 'who have actively served in the Army of the United States' should be construed to mean that he must have been in active service during a period of war.
>
> Will you kindly give me your interpretation of these words?

Section 1909 of the General Code to which you refer, provides:

> "All honorably discharged officers, soldiers, sailors and marines, who served in the regular or volunteer forces of the United States, including the Ohio National Guard, who have actively served in the army of the United States, and who have been citizens of Ohio one year or more at the date of making application for admission, who are disabled by disease, wounds or otherwise, and by reason of such disability incapable of earning their living, and all soldiers of the National Guard of Ohio who heretofore have lost, or hereafter may lose an arm or leg, or his sight, or may become permanently disabled from any cause, while in the line and discharge of duty, and are not able to support themselves, may be admitted to the home under such rules and regulations as its board of trustees adopts."

In analyzing the above section, it would seem that the phrase "who have actively served in the army of the United States" has reference to the Ohio National Guard as previously mentioned in said section, and does not qualify the former phrase "all honorably discharged officers, soldiers, sailors and marines, who served in the regular or volunteer forces of the United States."

The reason for such distinction is clear on account of the fact that for the most part the Ohio National Guard is not in active service except in times of war, whereas, a soldier of the army or navy is in active service when devoting full time service under orders of his superior officers, whether in times of war or in times of peace.

In the event it should be held that the phrase about which you inquire modifies the phrase relating to soldiers and sailors in the army or navy of the United States, as well as the phrase which relates to the Ohio National Guard, it would not affect the question in so far as the case you present is concerned, for the reason that such a soldier was in the active service of the army of the United States irrespective of whether a state of war existed. Of course, in the case of a member of the National

Guard, there may be some complicated questions arise as to when such a member is in the active service. However, that question is not now before us.

You are therefore specifically advised that where one has served in the regular army of the United States for a period of three yars, during which time he devoted full time to his duties under the supervision and direction of superior regular army officers, has been honorably discharged and has been a resident of the state for a period of one year preceding his application, he may be admitted to the Ohio Soldiers' and Sailors' Home if his physical condition authorizes such admission as set forth in Section 1909 of the General Code.

Respectfully,
GILBERT BETTMAN,
Attorney General.

601.

TAX AND TAXATION—CLAIMS FOR RENEWAL PREMIUMS ON LIFE INSURANCE IN HANDS OF ADMINISTRATOR—EXEMPT.

SYLLABUS:

Claims under a contract between a life insurance agent and the company for commissions on renewal premiums which come into the hands of the administrator of the estate of the deceased agent, not yet paid to the insurance company, and therefore not fixed and certain but indefinite, contingent and unliquidated as to amount, are not credits in the hands of said administrator, and therefore should not be listed by him for taxation.

COLUMBUS, OHIO, July 6, 1929.

HON. C. E. MOYER, *Prosecuting Attorney, Sandusky, Ohio.*

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

> "We have in this county at the present time, the administration of an estate of a life insurance agent, and it seems that said agent had before his death and the same is payable to his heirs after his death, certain renewal commissions, payable under contract.
>
> The appraisers of his estate appraised said renewal commissions at $8,000.00, and the administrator of the estate refuses to pay any personal tax on said renewal commissions, as appraised by said appraisers, for the reason that he claims that life insurance renewal commissions are not taxable.
>
> This renewal commission contract, according to the terms of same, can be sold to any one outside of the heirs and it further provides that in case it is not sold the money is payable to the heirs of the deceased.
>
> Would you kindly give me your opinion as to whether or not said renewal commissions payable to the estate are taxable?"

You also at my request submitted for my consideration a copy of the contract under which said renewal commissions are payable. The contract is between the general manager of the life insurance company and the deceased agent. Under said contract the agent was appointed to represent the company in soliciting applications