Considering the provisions of these statutes, there can be no doubt that a park district, organized as provided therein, is a taxing district. Opinions of the Attorney General for 1922, Vol. I, page 192.

Section 14178-8, General Code, as amended in 114 O. L. 19, which provides for the leasing for a period not exceeding fifteen years, with right of renewal, of lands in the abandoned portion of the Miami and Erie Canal not needed for highway purposes, says in part:

> "Provided, however, that if any municipal corporation, Lucas county, township, or other taxing district desires to lease any portion of said lands not required for said highway purposes, to be used for park or recreational purposes and open to public use, the same shall be leased to such taxing district upon a nominal rental and for a period of ninety-nine years, renewable forever.
>
> Said application shall be made in writing, upon forms provided for that purpose, and shall clearly describe the lands covered in said application, and shall state the term of years for which such lease is desired, and shall be signed by a public officer, duly authorized by the public authorities of the city, village, or other political subdivision making said application, and when the same shall be desired by any political subdivision."

This statute refers to "any municipal corporation, Lucas County, township, or other taxing district", and also provides that the application shall be signed by "a public officer, duly authorized by the public authorities of the city, village, or other political subdivision making said application". The language used indicates no intention to limit the provisions of this statute to subdivisons that are recognized or specially authorized by the Constitution but is broad enough to include as well any taxing district lawfully created by the legislature.

I am of the opinion, therefore, that a park district organized under the provisions of sections 2976-1, et seq., General Code, is a taxing district within the meaning of Section 14178-8, General Code.

Respectfully,
GILBERT BETTMAN,
Attorney General.

4111.

HIGH SCHOOL PUPIL—ATTENDING SCHOOL OUTSIDE DISTRICT OF RESIDENCE — BOARD OF EDUCATION REQUIRED TO PAY TUITION FOR ONLY FOUR YEARS.

SYLLABUS:

The clause "no board of education is required to pay the tuition of any pupil to high school for more than four school years," appearing in Section 7748, General Code, should be construed as being a limitation on the right of a pupil to have his tuition paid when attending a high school outside the district of his residence, for

more than four school years, from public funds, regardless of whether or not one or more boards of education pay that tuition.

COLUMBUS, OHIO, February 27, 1932.

HON. SCOTT GRAVES, *Prosecuting Attorney, Port Clinton, Ohio.*

DEAR SIR:—This will acknowledge receipt of your request for my opinion, which reads as follows:

> "Kindly render your opinion upon the following questions pertaining to the payment of tuition by a rural school board of a district in which no high school is maintained.
>
> A pupil became a resident of said rural school district after completing two years of high school elsewhere. The rural board of education paid tuition for the pupil's attendance at Port Clinton High School for the next two years. The pupil failed to graduate at the end of four years of high school attendance and is now attending the Port Clinton High School her fifth year. Is the rural board of education liable for her tuition this year?
>
> Another pupil from a rural school district maintaining a third grade high school attended high school in another district, to wit, Port Clinton High School, her first year in high school. She paid her own tuition. The following year the rural third grade high school was discontinued. She attended Port Clinton High School three more years and her tuition was paid by the rural school board of said district in which no high school was then maintained. She failed to graduate in four years of high school work and is attending Port Clinton High School her fifth year. Is the rural school board liable for her tuition her fifth year of high school, although tuition has only been paid by the rural school board for three years?"

Your inquiry resolves itself into purely a question of statutory construction. Sections 7747 and 7748 of the General Code, provide that the tuition in a high school of all pupils entitled to attend high school, by reason of their state of advancement, must be paid by the board of education of the school district of their residence, providing no high school is maintained in the district of residence. Section 7748, supra, provides inter alia, "No board of education is required to pay the tuition of any pupil to high school for more than four school years." This provision in the statute has been incorporated therein for a number of years. It was first introduced into the statutes in former Section 4029-3, Revised Statutes, in 1902 (95 O. L., 219). I do not find that the language quoted above, has ever been judicially construed either by a court or by this office, with a view to the solution of a problem such as is presented by your inquiry.

The cardinal rule for construction of statutes is to determine the intention of the legislature in enacting them. That intention is to be determined primarily from the language used. However, the words of the statute are not the only source from which its meaning is to be gathered. It is one of the most familiar duties of a court in the construction of statutes, to consider their object, scope, end, and the evils that lead to their adoption so that they may receive that interpretation that will give them due effect. *Van Matre* vs. *Buchanan,* 233 at 235;

Matthews vs. *Caldwell,* 2 Dec. 279. It has been held by the Supreme Court in *Trustees* vs. *White,* 48 O. S., 577, that,

> "It is proper, in giving construction to a statute, to inquire into the cause and necessity of its enactment. When an amendment has been made, what was the mischief or defect for which the law as it stood, has not provided."

To give to the language of this statute a strict literal meaning, would call for such a construction as to require a school district which did not maintain a high school, to pay the tuition of resident high school pupils in other districts for four full years, regardless of whether or not the pupils' tuition had been paid for a year or more by some other school district in which he had resided before he moved into the district in question.

I am of the opinion, however, upon consideration of the apparent purpose for which this enactment was made, and upon application of the rule of construction referred to above, that the intent of this limitation was to limit the right of a pupil to have his tuition paid from public funds for more than four school years, regardless of the particular district that had paid that tuition.

Regarding the statute in this light, it follows that if a pupil resides in a district which does not maintain a high school, and his tuition is paid in other high schools by the district of his residence, for one, two or three years, and he then moves to another district which does not maintain a high school, he is entitled to have his tuition paid in a high school which he may attend outside the district for such a time only as will, in the aggregate, make four years for which his tuition is paid from public funds.

In other words, a pupil is entitled to have his high school tuition paid if he lives in a district which does not maintain a high school and attends high school in other districts, for four years only, and if he pays his own tuition for any part of the period he attends high school under the circumstances mentioned his tuition should be paid by the district of his residence, for such a time as to make in the aggregate, four years, regardless of whether they be the first, second, third, fourth, fifth or sixth years of his attendance at high school.

You do not state in your first question whether or not the pupil mentioned was the beneficiary of foreign tuition before moving into the rural school district in question. It is possible that the pupil may have resided in a school district which maintained a high school. In that case, I do not think that the statute will bear such construction as to permit two years attendance of the pupil at a high school maintained by a district in which she lived counted as a part of the four years. This provision of the statute specifically refers to the *payment of tuition* by a board of education for attendance *outside the district.* If, before moving into the rural district in question, the pupil had lived in a district which did not maintain a high school, and attended school outside the district, and her tuition was paid by the district, from public funds, I am of the opinion that those two years would become a part of the four years spoken of in the statute.

It is therefore impossible to definitely and categorically answer your first question. The answer depends on whether or not the pupil's tuition had been paid from public funds during the first two years of her attendance at high school. If it was, then, in my opinion, the rural board of education mentioned would not be liable for tuition for the current year. If the pupil's tuition was not paid by the district of her residence, for these first two years, and the pupil

attended a high school maintained by the district of her residence during these first two years, the rural board of education mentioned is liable for tuition to the Port Clinton High School for the current year.

In answer to your second question, I am of the opinion that the rural school district mentioned, is liable for the tuition of the pupil in question for the current year.

Respectfully,
GILBERT BETTMAN,
Attorney General.

4112.

COUNTY COMMISSIONERS—RENDERING AID TO PERSON BITTEN BY DOG AFFLICTED WITH RABIES—NO RIGHT TO REIMBURSEMENT FROM OWNER OF DOG.

SYLLABUS:

Where the county commissioners have reimbursed a person bitten by a dog afflicted with rabies, for medical attention rendered necessary thereby, there is no legal authority for a recovery by such commissioners against the owner for reimbursement of such sum, whether the owner had obtained a license for such dog or not.

COLUMBUS, OHIO, February 27, 1932.

HON. PAUL A. FLYNN, *Prosecuting Attorney, Tiffin, Ohio.*

DEAR SIR:—This will acknowledge your request for my opinion relative to the following question:

> "An unlicensed dog, which, under the law, should have been licensed, injured a child. The county commissioners, under the statute, provided and paid for the hydrophobia treatment, and now the commissioners would like to know whether or not they are entitled to proceed against the owner of the dog, for reimbursement."

Section 5851 of the General Code, reads as follows:

> "A person bitten or injured by a dog, cat or other animal afflicted with rabies, if such injury has caused him to employ medical or surgical treatment or required the expenditure of money, within four months after such injury and at a regular meeting of the county commissioners of the county where such injury was received, may present an itemized account of the expenses incurred and amount paid by him for medical and surgical attendance, verified by his own affidavit and that of his attending physician; or the administrator or executor of a deceased person may present such claim and make such affidavit. If the person so bitten or injured is a minor such affidavit may be made by his parent or guardian."

I find no language in this section making the liability contingent upon whether or not the owner had procured a license for the dog.