of lands in connection with the Nimisila Basin Reservoir project to pay the purchase price of this property and of the flowage right or easement above referred to, which purchase price is the sum of $600.00. It likewise appears by recitals contained in this contract encumbrance record that the purchase of this property has been approved by the Controlling Board.

I am accordingly approving the title of Albert Workinger to the above described property, subject only to the exceptions hereinabove noted; and I am likewise approving the deed and contract encumbrance record which, together with the certificate of title, are herewith returned to you for your further attention in closing the transaction for the purchase of this property.

Respectfully,
HERBERT S. DUFFY,
Attorney General.

1989.

SCHOOL—INTERPRETATION OF WORD—OPERATED FOR PROFIT NOT FACTOR IN DEFINITION UNDER SECTION 1345-1 (E) (5) G. C.—"COLLEGE" AS USED IN SECTION 7650 G. C.—EMPLOYMENT—PRIVATE OR PAROCHIAL SCHOOLS—COLLEGES AND UNIVERSITIES—TEACHER, RESEARCH OR EXPERIMENTAL WORK, OFFICER—FACULTY—UNEMPLOYMENT COMPENSATION ACT.

SYLLABUS:

1. *The word "school" as used in Section* 1345-1 (E) (5), *General Code, should be strictly construed and only includes institutions lower than the grade of college wherein a course of general education and mental training is offered for children similar to that offered in the public schools. Whether or not institutions are operated for profit is not a factor in determining whether said institutions come within the definition of the word "school" as that word is used in Section* 1345-1 (E) (5).

2. *Inasmuch as there is no other statutory definition and in the absence of case law on the subject, the definition of the word "college" contained in Section* 7650, *General Code, should be adopted in the interpretation of that word as it appears in Section* 1345-1 (E) (5).

3. *Employment by private or parochial schools, colleges and universities in capacities other than as a "teacher" or "in research or experimental work" or "as administrative officer" or "as a member of the*

faculty" is not exempt from the provisions of the Unemployment Compensation Act.

COLUMBUS, OHIO, February 28, 1938.

HON. CHARLES S. LEASURE, *Chairman, The Unemployment Compensation Commission, 68 East Gay Street, Columbus, Ohio.*

DEAR SIR: I am in receipt of your recent communication which reads as follows:

> "Your opinion is requested on the following questions:
> Section 1345-1(E) (5) provides as follows:
> The term employment shall not include—
> 'Service performed in the employ of a private or parochial school, college, or university as a teacher, in research or experimental work, as an administrative officer, or as a member of the faculty.'
> 1. Do private boarding, dancing, dressmaking, auto mechanic, business course and other similar schools operated for profit come within the above exemption?
> 2. Are janitors, cooks, waitresses, chambermaids and other similar help, not engaged in research or experimental work, and who are not administrative officers or members of the faculty amenable to the act?"

Your attention is directed to the statutory provision quoted in your letter, particularly to the phrase "private or parochial school." It is apparent that the answer to your first question depends upon the definition applied to the word "school."

The word "school" is a word permitting various connotations. In certain cases it has a broad meaning. Webster's New International Dictionary, 1929 Edition, gives as its first definition of the word the following:

> "A place for instruction in any branch or branches of knowledge; an establishment for imparting education; also, the institution or collective body of teachers and learners in such a place. When without qualification, *school* is now familiarly used of an institution for teaching children; as, he went through *school* and college."

In 56 Cor. Jur., 167, the following appears opposite "School":

> "The word 'school' is a generic term, denoting an institution

or place for instruction or education, or the collective body of instructors and pupils in any such place or institution."

The term "private school" is there defined at page 169 as follows:

"A 'private school' as distinguished from a 'public school', is one managed and supported by individuals or a private organization."

In Bouvier's Law Dictionary, Rawle's Third Revision at page 3010 we find a somewhat different definition given, viz.:

"School—An institution of learning of a lower grade than a college or university, a place of primary instruction."

An examination of the cases reveals that there is a similar disparity appearing in the opinions of the various courts as to the meaning of the word "school." This is not peculiar as the cases involve the consideration of the word as it appears in different types of statutes. Some of the cases, considering exemptions from taxation measures, have sought to narrow the term, while others, because of constitutional provisions or otherwise, have applied a broader meaning.

Thus in the case of *Board of Commissioners of Tulsa City* vs. *Tulsa Business College,* 1 Pac. 2nd, 351 (Oklahoma) it was held that the exemption of property "used exclusively for schools, colleges, * * *" included property held by business colleges. In *Pucher* vs. *Wolcott School Association,* 165 Pac. 608 (Colorado) it was held that such an exemption included a private boarding school operated for profit. On the other hand, it was held in case of *Lichentag* vs. *Tax Collectors,* 15 Southern, 176 (Louisiana), that the exemption of schools from taxation statutes did *not* include business schools. In this latter case, the court said the word "school"—"is used for the purpose of describing ordinary schools such as we know in common speech—educational institutions below the grade of college; in which elementary knowledge is imparted. Such institutions are for the purpose of instructing young children and known as primary or common schools or academies. Such institutions are for the purpose of acquiring knowledge and mental training." The court went on to indicate that in its opinion the term did not include boxing, fencing, dancing and gymastic schools or institutions in which the pupils were trained in the arts such as painting and music academies.

An examination of the other cases in which the word "school" has been defined by the court reveals a similar lack of unanimity. Thus it was held in the case of *Granger* vs. *Lorenzer,* 133 N.W., 259 (South Dakota) that the word "school" as used in a statute prohibiting the sale of intoxicating liquors within three hundred (300) feet of a public or

private school, did not include a business college. To the same general effect is *In re Townsend,* 88 N.E. 41 (New York) wherein it was held that a nurses' school was not a "school" within the meaning of the statute prohibiting the sale of liquor within a certain distance from a school. Upholding the broader definition of the term is the case of *Northrop* vs. *City of Richmond,* 53 S.E. 962 (Virginia) which held that a business college was a "school" within the meaning of the statute requiring the rendition of certain service to school children by transportation companies. However, the case of *Murphy, et al.* vs. *Wooster Consolidated State Railroad Company,* 85 N.E. 507 (Massachusetts) is illustrative of the fact that even within the narrow field of law pertaining to the transporting of school children by public utilities, the courts have not been in agreement. At page 512, the following appears:

> "The word 'schools' is undoubtedly one of broad significance and sometimes it may appear, by the connection in which it is used, to include higher institutions of learning, * * * (Citing cases) but ordinarily without something to indicate that a wider meaning was intended to be given to this word, it will not be taken to include such higher institutions as colleges or universities or institutions for the teaching of trades, professions or businesses. * * * (Citations) * * *."

Although the term "school", as is above indicated, is variously defined in other jurisdictions, peculiarly there are no Ohio cases on the subject and it is noteworthy that even the definition quoted below, appearing in 36 O. J., at page 4, is not supported by any Ohio authority:

> "A school, in the ordinary acceptance of the word, is a place where instruction is imparted to the young, an institution for learning, an educational establishment, a place for acquiring knowledge and mental training. The number of persons, whether one or many, does not make a place where instruction is imparted any more or less a school, although the word usually implies plurality. The word is a generic term and includes all schools or institutions, whether of high or low degree. In the broad sense of the word, it includes private, as well as public, institutions of learning, the only difference between the two being in the nature of the institution."

Thus we are here confronted with a problem for which there is no Ohio authority and in regard to which the cases in other jurisdictions have been in conspicuous disagreement. It is clear that the word "school"

is commonly used in two senses; one, the broad generic sense which includes any institution wherein a course of training is offered and two, the narrower sense, including only such institutions below the grade of college as conduct a course comparable to that offered in public schools devoted to the general education of children.

I know of no authority for distinguishing between schools operated for profit and similar schools operated "not for profit." The statute uses the term "private schools" and as is stated in 24 R. C. L. at page 558:

> "The only difference between a public and private school is the nature of the organization; one is a public institution organized and maintained as one of the institutions of the state. The other is a private institution organized and maintained by private individuals or corporations."

This statement, I believe, is declaratory of the law on the subject (see also *State* vs. *Connart,* 129 Pac. 910 Washington) and indicates that the term "private schools" is merely used to describe institutions "organized and maintained by private individuals or corporations" regardless of whether such institutions are operated "for profit."

It must be kept in mind that we are here considering an exemption from a tax measure. As was pointed out in my Opinion No. 1769, most of the courts which have considered the Unemployment Compensation Acts, have viewed these acts taxation measures. It is a fundamental canon of statutory construction that exemptions from tax measures must be strictly construed (Lewis' Sutherland Statutory Construction, 2nd Ed. Vol. II, page 1002). It has been said that such exemptions must be clearly proven and will not be inferred. (Article 12, Section 2 of the Constitution of the State of Ohio and Section 5349, General Code of Ohio, provide for exemption for educational and charitable institutions but such exemption applies only to property taxes).

The sole provision in the Unemployment Compensation Act having any bearing on the issue is the second paragraph of Section 1345-33 which reads as follows:

> "This act shall be liberally construed to accomplish the purposes thereof."

The purpose of the Unemployment Compensation Act is stated in Section 1345-54 in the following language:

> "This act is enacted as part of a national plan of unemployment compensation and social security, and for the purpose of assisting in the stabilization of employment conditions. * * *"

It is clear that these purposes will best be accomplished by the inclusion of as many employes as possible within the terms of the Act and that the second paragraph of Section 1345-33 was inserted by the Legislature to indicate to the courts that this should be the guiding light in the interpretation of the Unemployment Compensation Act.

Keeping in mind, as hereinbefore stated, that exemptions from taxation statutes should be strictly construed and also the provisions of the second paragraph of Section 1345-33 above quoted, I am compelled to the conclusion that the word "school" should not be given the broad, general meaning which is sometimes attached to the term, but should rather be given the narrower or more restrictive meaning, in which sense the word is also used. In other words, the word "school" as it appears in Section 1345-1 (E) (5) should be interpreted to mean institutions below the grade of college wherein a course of general education is given to children. Whether a private boarding school would come within this definition would depend on the particular case. On the other hand, it is difficult to conceive of a dancing, dressmaking or auto mechanic school which would fit into it. A business school, on the other hand, might fall within the category of "colleges" as that word is used in Section 1345-1, (E) (5).

It is certainly clear that the word "school" as used in this section does not include colleges for the word "college" must be given a somewhat different meaning in order to interpret the statute in accordance with the rule of statutory construction that dictates that statutes are to be so interpreted as to give each word an independent meaning and effect. The following definition given for the word "college," should, therefore, be read with this limitation in mind. Webster's New International Dictionary, 1929 Edition, defines "college":

> "(1) A collection, body, or society of persons engaged in common pursuits, or having common duties and interests, and sometimes, by charter, peculiar rights and privileges.
>
> (4) A society of scholars or friends of learning, incorporated for study or instruction, especially in the higher branches of knowledge.
>
> (5) An institution for special instruction, usually of a professional kind; as a *college* of music or theology."

Section 7650, General Code, defines a "college" as follows:

> "A college is a school of a higher grade than a high school, in which instruction in the high school branches is carried beyond the scope of the high school and other advanced studies

> are pursued, or a school in which special, technical or professional studies are pursued, and which, when legally organized, may have the right to confer degrees in agreement with the terms of the law regulating its practices or its charter; or in the absence of legislative direction, in agreement with the practices of the better institutions of learning of their respective kinds in the United States."

Although this definition is obviously intended for the interpretation of the various statutes specifically relating to the management and regulation of educational institutions by the state, it is noteworthy for it is the only definition appearing in the Code of the term and, furthermore, since there is no case law in Ohio on the subject. In the absence of any authority to the contrary, I am of the opinion that the statutory definition above recited may be adopted in the interpretation of Section 1345-1 (E) (5). Whether or not employment by a particular business college in the rendition of the classes of services specified in Section 1345-1 (E) (5) constitutes "employment" as that term is used in the Unemployment Compensation Act, therefore, in my opinion, depends upon whether such institutions can meet the qualifications outlined in Section 7650, General Code.

In your second question you inquire whether "janitors, cooks, waitresses, chambermaids and other similar help, not engaged in research or experimental work, and who are not administrative officers or members of the faculty" are amenable to the act?

I see no reason for exempting employes engaged in various occupations you catalogue from the provisions of Section 1345-1 (E) (5) as it is certainly clear that the exemption provided in this statute only includes employes who render services as "teachers" or "in research or experimental work" or "as an administrative officer" or "as a member of the faculty."

Respectfully,
HERBERT S. DUFFY,
Attorney General.