

character of the indebtedness, provided it is a binding obligation of the district. This statement answers your fourth question. Section 5656, however, stipulates that the rate of interest on bonds or notes issued under favor of its authority shall not exceed six per cent. There is no other authority in a board of education to borrow money for purposes of this kind. Your third question is therefore answered in the negative, and your fourth question by the statement that a board of education may borrow money under section 5656 for the purpose of extending the time of payment of any indebtedness whatever, whether that indebtedness was incurred by reason of a failure of revenue in the tuition fund or in any other fund against which lawful obligations have been incurred.

Respectfully,
 JOHN G. PRICE,
Attorney-General.

1754.

INHERITANCE TAX LAW—BEQUEST TO TRUSTEES FOR FOUNDING OR AIDING AN INDUSTRIAL SCHOOL TO BE OPEN TO ALL ON SAME TERMS AND NOT OPERATED FOR PROFIT IS EXEMPT FROM SAID TAX.

A bequest to trustees for the purpose of founding or aiding an industrial school, to be open to all on the same terms and not to be operated for profit, is exempt from inheritance taxation, though not as one made for the use of a "public institution of learning."

COLUMBUS, OHIO, December 30, 1920.

Tax Commission of Ohio, Columbus, Ohio.

GENTLEMEN:—In its letter of recent date the commission encloses a copy of item 10 of the will of one George John Record, of Ashtabula county, and inquires whether the school provided for therein is a public institution of learning within the purview of section 5334 of the General Code.

Said section 5334 enumerates among the exempted successions those passing to or for the use of "public institutions of learning" and "an institution for purposes only of public charity, carried on in whole or in substantial part within this state."

In the opinion of this department, the school provided for by said item 10, which is to be established through the medium of a trustee for certain stipulated purposes, preferably in connection with one or another of certain named municipalities, but if such municipalities do not accept then as a private institution, is not such a public institution of learning as section 5334 contemplates. The opinion of this department is that in order to be "public" an "institution of learning" must be maintained by the public. It is remotely possible that this trust may inure to the benefit of some public institution in this sense, but taking the item as a whole it does not appear that there is any vested use in a public institution or institutions as such.

It is, however, the opinion of this department that the institution which the testator contemplates as the beneficiary of this item would be an institution of public charity. While the item is not explicit on this point, it is to be gathered from its provisions as a whole that the testator does not contemplate that the

benefit of the item shall go to any institution operated for profit. In other words, it is quite clear by the word "school" he had in mind an institution public in the sense that it is not maintained for private gain and is open to all on equal terms. The restrictions concerning the reading of the Bible, the attendance at public worship, etc., are not of such character as to destroy the publicly charitable nature of the undertaking.

While the commission does not request the opinion of this department upon the specific point, it seems not inappropriate to remark that this department is of the opinion that the succession is not taxable.

Respectfully,
JOHN G. PRICE,
Attorney-General.

1755.

APPROVAL, FINAL RESOLUTION FOR ROAD IMPROVEMENT IN
PUTNAM COUNTY, OHIO.

COLUMBUS, OHIO, December 31, 1920.

HON. A. R. TAYLOR, *State Highway Commissioner, Columbus, Ohio.*

1756.

DISCUSSIONS OF RIGHTS OF BOARD OF EDUCATION AND CITY
COMMISSION TO ENTER INTO AGREEMENT TO EXTEND WATER
MAINS IN CITY STREET ON NAKED PROMISE OF COMMISSION TO
REPAY TO BOARD INITIAL COST OF SUCH EXTENSION WHEN
SIX PER CENT PROFIT FROM WATER USERS THEREON IS MADE
BY CITY.

For a board of education, in order to be furnished city water, to enter into an agreement, to extend the water mains in the city street on a naked promise of the city commission to repay the initial cost of such extension, at a time when, under city control and management, a six per cent profit from water takers thereon is made by the city, is an arrangement of such indefinite and doubtful character for the board, that it should be avoided. The right of a consumer to enforce a demand for water service is, in general, conceded, but to enforce a demand for the extension of a water main depends upon all the facts and circumstances of the case.

COLUMBUS, OHIO, December 31, 1920.

HON. VERNON M. RIEGEL, *Superintendent of Public Instruction, Columbus, Ohio.*

DEAR SIR:—Acknowledgment is made of the receipt of your communication, which is as follows:

"1. Springfield is a chartered city and has a commission-manager