

be observed that the value of this lot as shown upon the tax duplicate is \$40.00, which if correct perhaps will reduce the actual value of said dower interest to a comparatively small amount. In further considering this matter, it is believed that if it is of advantage to the state to purchase said premises you may take into consideration the financial responsibility of the grantors in case they are willing to execute a deed warranting said premises to be free from all incumbrances.

It should be mentioned that in the conveyance of the one-half of lot No. 18 by Lewis Sells and Rhoda J. Sells, as shown at section 32 of the abstract, the grantee was designated as "France" Reed; while in the conveyance of said premises to Rhoda J. Sells on November 12, 1920, as shown in section 3 of the continuation of the abstract, the grantor is designated as "Francis" Reed. In the event that you should enter into a contract to purchase said premises, you should have definite information to the effect that "France" Reed and "Francis" Reed is one and the same person. Under such circumstances it is believed that this inconsistency will not be material.

You are therefore advised that in my opinion said abstract shows a good title to said premises on April 16, 1920, the date of the last continuation thereof, to be in the names of Rhoda J. Sells and Mary K. S. Bower (now Mary K. S. Tessier), subject to the possibility of a dower interest as heretofore referred to and the taxes for the year 1920, the amount of which is undetermined.

Respectfully,
JOHN G. PRICE,
Attorney-General.

1187.

APPROVAL, FINAL RESOLUTIONS FOR ROAD IMPROVEMENTS IN
CLERMONT COUNTY, OHIO.

COLUMBUS, OHIO, April 29, 1920.

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

1188.

STATE BOARD OF EMBALMING EXAMINERS—CITIZENSHIP RE-
QUIREMENTS NOT NECESSARY FOR APPLICANTS—PERSONS
MUST BE ABLE TO SPEAK AND WRITE ENGLISH LANGUAGE.

1. *The State Board of Embalming Examiners can not refuse the application to be registered for an examination of a person, on the ground that he is not an American citizen.*

2. *A person must be able to speak and write the English language before he can be registered as an applicant to take the examination to be licensed as an embalmer.*

COLUMBUS, OHIO, April 29, 1920.

State Board of Embalming Examiners, Columbus, Ohio.

GENTLEMEN:—Your letter of recent date is as follows:

"We respectfully ask for the following opinions:

Can this board refuse the application for examination of a person who is not an American citizen?

Does the filing of the first papers constitute a person an American citizen; if not, when does he or she become such?

Can this board require all applicants to write and speak the English language as a prerequisite to taking an examination?"

An examination of the statutes creating the State Board of Embalming Examiners and defining its powers and duties shows that they do not specifically provide for any residential or citizenship requirements of those who are permitted to make application to be registered for the purpose of an examination.

Section 1342 G. C. (107 O. L. 656) provides:

"Every person desiring to engage in the practice of embalming or the preparation of the dead for burial, cremation or transportation, in the state of Ohio, shall make a written application to the State Board of Embalming Examiners for registration, giving such information as the said board may, by regulation, require for such registration. Each application must be accompanied by a fee of one dollar with the certificate of three reputable citizens, (one of whom shall be a licensed embalmer) that the proposed applicant is of good moral character, and stating his age and general education which shall be such as to entitle him or her to admittance to high school. If the said board shall find the facts set forth in the application to be true, the said board shall issue to said applicant a certificate of registration. Before a registered applicant can apply for and take an examination in the practice of embalming or preparing for burial, cremation or transportation, the body of any dead person in the state of Ohio, said applicant shall have completed to the satisfaction and approval of the said board, a course consisting of at least twenty-six weeks of studies in the science of embalming, disinfection and sanitation in a regular school of embalming, recognized by said board or shall have had at least two years of practical experience under a licensed embalmer in this state, during which time he or she shall have embalmed, (arterially) at least twenty-five dead adult human bodies. All applications for a license to practice embalming and the preparation of the dead for burial, cremation or transportation in this state, must be made to the State Board of Embalming Examiners in writing and contain the name, age, residence and the person or persons with whom employed, the name of the school attended together with a certificate from two reputable citizens that the applicant is of legal age and of good moral character, also a certificate under oath when required by the said board from the president or dean of the embalming school or college he or she has attended, that the applicant has complied with the requirements of said school or college or a certificate under oath, when required by said board, from the licensed embalmer under whom he or she has worked as an apprentice, that he or she has complied with the requirements of apprenticeship as set forth in this section. Each application must be accompanied by a fee of ten dollars and the certificate of registration. If after the State Board of Embalming Examiners are satisfied that the applicant has qualified as set forth in this section, the said board shall cause the said applicant to appear before them and be examined in the subjects as set forth in the preceding section and he must pass said examination with an average grade of not less than seventy-five per cent."

Section 1341 G. C. enumerates the subjects upon which the applicant shall be examined.

From the above it is clear, in so far as these statutes are concerned, that there is no designation as to who may become an applicant to be registered for an examination, other than "every person desiring to engage in the practice of embalming," etc., who can qualify as to his moral character and education. While section 1338 G. C. provides in part (107 O. L. 655) :

" * * * The board shall from time to time make and adopt rules, regulations and by-laws, for its government not inconsistent with the laws of this state and the United States. * * *"

it is not believed that this would enable the board to determine who are proper applicants as a class. Undoubtedly it is within the power of the board to determine when an individual is qualified to be registered as to moral character or educational qualifications.

While under the provisions of the constitution of Ohio one may not hold an office in the state who has not the qualifications of an elector, this rule does not apply to one who is licensed and engaged in the business of embalming. Such a licensee is not an officer within the meaning of said constitutional provision. A liquor license was not permitted to be granted to one who was not a citizen of the United States, but this was because of the statute expressly prohibiting the issuance of such a license.

In specific answer to your first inquiry, it is the opinion of this department that it is not within the power of the State Board of Embalming Examiners to refuse the application of one desiring to be licensed as an embalmer on the ground that he is not an American citizen, if said applicant can otherwise qualify.

In view of the answer given to your first inquiry, it is not believed essential to consider your second question.

In the consideration of your third inquiry it will be observed that under the provisions of section 1342, supra, the qualifications of the applicant must be such as will entitle him to admission to a high school.

Under the provisions of section 7747 G. C. (107 O. L. 625), it is clearly indicated that one to be eligible to a high school must have "completed the elementary school work."

Section 7648 G. C., which defines an elementary school, provides in part :

"An elementary school is one in which instruction and training are given in spelling, reading, writing, arithmetic, English language, English grammar and composition, geography, history of the United States, including civil government, physiology and hygiene. * * *"

In view of the foregoing, it is evident that an applicant must be able to speak and write the English language before he can properly qualify as a registrant to take the examination to be licensed as an embalmer.

Respectfully,

JOHN G. PRICE,
Attorney-General.