The facts then before the Attorney-General did not make necessary any conclusion on this point, however, as it was apparent that the person in question there had actually resided in Ohio for a period of between seven and eight months next preceding the second Monday of April, 1917. The remark above quoted was not carried into the syllabus of the opinion, and this department does not now concur therein.

It is accordingly the opinion of this department that a person who takes up his residence in this state less than six months next preceding the day before the second Monday of April in a given year, with a bona fide intention of remaining here permanently, is subject to taxation in this state in respect of his moneys, credits and investments held on that day.

Respectfully,
JOHN G. PRICE,
Attorney-General.

2324.

BOARD OF EDUCATION (RURAL)—WITHOUT AUTHORITY TO ELECT SUPERINTENDENT OF SCHOOLS UNDER SECTION 7690 G. C.

A rural board of education is without authority to elect a superintendent of schools under the general language of section 7690 G. C., since the General Assembly has provided for county supervision of schools by a county superintendent and such assistant county superintendents as may be elected by the county board of education.

COLUMBUS, OHIO, August 12, 1921.

HON. J. KENNETH WILLIAMSON, *Prosecuting Attorney, Xenia, Ohio.*

DEAR SIR:—Acknowledgment is made of the receipt of your letter of June 21, in which you request my opinion on the following statement of facts:

> "Section 7690 G. C., recently enacted by the 84th general assembly, found on page 49 advance sheets of school laws, is as follows:
>
> 'Each city, village or rural board of education shall have the management and control of all the public schools of whatever name or character in the district, except as provided in laws relating to county normal schools. It may elect, to serve under proper rules and regulations, a superintendent or principal of schools and other employes, including, if deemed best, a superintendent of buildings, and may fix their salaries.'
>
> I have construed this to mean that this section permits a rural board of education to elect a superintendent of schools.
>
> 1st. Is this construction sound?
>
> 2nd. Will it permit two or more township boards of education to each employ the same superintendent providing each board can make a suitable agreement with said superintendent in reference to salary each board shall pay and to the amount of time each township district is to receive from said superintendent?"

In analyzing your statement furnished and the questions submitted, it appears that the real question before us is whether the general assembly at its recent session passed any law, the intent of which was to bring back

the township superintendents of schools who were in existence prior to the enactment of the new school code providing for county and district supervision, beginning in the summer of 1914.

Section 7690 G. C., from which you quote, as it appears on page 49 of the advance sheets of Ohio school laws, appears in House Bill 111 (Mr. Bing) and is effective on and after August 25, 1921. In quoting from this newly amended section you rather indicate that the general assembly has made a new provision relative to superintendents of schools being elected by boards of education different from what has existed heretofore or even at the present time. It may be said that section 7690 G. C., as appearing in House Bill 111 (Mr. Bing) does say that "each city, village or rural board of education * * * may elect * * * a superintendent or principal of schools * * *", but a careful examination of the history of this section, even as it appeared in the Revised Statutes prior to the enactment of the General Code, shows that this language of a general nature has always appeared in this section for the last half century; that is to say, since 1873 this general statement, relative to a board having the power to elect a superintendent of schools, has appeared in section 7690 all the time, even after the new school code of 1914 automatically did away with former township superintendents and who have not been in existence in this state since 1914. In other words, if township superintendents, or, properly speaking, rural superintendents of schools, can be chosen under the newly amended section 7690, effective on and after August 25, then they can be chosen today or they could have been chosen during the last seven years since 1914, because the language which you indicate has appeared during all of this period, yet no question was ever raised after the township superintendents were discontinued in 1914, since the general assembly has provided for other supervision of the rural and village schools, by providing a county superintendent of schools under whose direction there would also be a number of district superintendents.

Your question, which means whether township superintendents of schools shall be brought back into Ohio after having been abolished automatically in 1914, is so important that it seems necessary to give as briefly as possible the history of section 7690 G. C., going back as far as 1873, that is, almost fifty years ago, in order to show that *section 7690, as amended by the present legislature, brings in no new idea or new authority* for boards of education to elect superintendents of schools, which did not exist heretofore. Thus on May 1, 1873, the general assembly of Ohio enacted the following language (which later became section 4017 R. S.) as paragraph 53, appearing on page 209, 70 Ohio Laws:

> *"The board of education of each school district* shall have the management and control of the public schools of the district which are or may be established under the authority of this act, *with full power* in respect to such schools, *to appoint a superintendent* and assistant superintendent *of the schools,* a superintendent of buildings, teachers, janitors and other employes, and fix their salaries or pay, which salary or pay shall not be increased or diminished during the term for which the appointment is made; provided, that no person shall be appointed for a longer time than that for which a member of the board of education is elected; * * *."

For a period of seventeen years section 4017 R. S. (now section 7690 G. C.) reads as above, but on April 28, 1890, it was amended to read as follows:

"*The board of education of each district* shall have the management and control of the public schools of the district, *with full power,* subject to the provisions of section 4018 *to appoint a superintendent* and assistant superintendents of the schools, a superintendent of buildings, and teachers, janitors, and other employes and fix their salaries or pay, which salaries or pay shall not be either increased or diminished during the term for which the appointment is made, but no person shall be appointed for a longer time than that for which a member of the board is elected; provided, that if any person is appointed to any position named in this section, for a longer period than one year, it shall require a majority of three-fourths of all the members elected to said board. * * *." (87 O. L., p. 372.)

On March 15, 1892, section 4017 R. S. was amended to read as follows:

"*Each board of education* shall have the management and control of the public schools of the district *with full power to appoint a superintendent* and assistant superintendents of the schools, a superintendent of buildings, and teachers, janitors and other employes, and fix their salaries or pay, which salaries or pay may be increased but shall not be diminished during the term for which the appointment is made; but no person shall be appointed for a longer time than that for which a member of the board is elected; and such board may dismiss any appointee for inefficiency, neglect of duty, immorality, or improper conduct." (89 O. L., p. 96.)

The same legislature, however, in another act under date of March 31, 1892, amended section 4017 R. S. to read as follows:

"*The board of education of each district* shall have the management and control of the public schools of the district with *full power to appoint a superintendent* and assistant superintendents of the schools, a superintendent of buildings, and teachers, janitors, and other employes, and fix their salaries or pay, which salaries or pay shall not be either increased or diminished during the term for which the appointment is made; but no person shall be appointed for a longer time than that for which a member of the board is elected. * * *." (89 O. L., p. 202.)

Two years later, under date of April 4, 1894, the general assembly again amended section 4917 R. S. (now section 7690 G. C.) to read as follows:

"*The board of education of each district* shall have the management and control of the public schools of the district, with *full power to appoint a superintendent* and assistant superintendents of the schools, a superintendent of buildings, and teachers, janitors, and other employes, and fix their salaries or pay, which salaries or pay shall not be either increased or diminished during the term for which the appointment is made; but no person shall be appointed for a longer time than that for which a member of the board is elected. * * *." (91 O. L., 113.)

But in another act, passed just about six weeks later by the same general assembly, under date of May 21, 1894, the section in question (4017 R. S.) was amended to read as follows:

"*Each board of education* shall have the management and control of the public schools of the district with *full power to appoint a superintendent* and assistant superintendents of the schools, a superintendent of buildings, and teachers, janitors and other employes, and fix their salaries or pay, which salaries or pay may be increased but shall not be diminished during the term for which the appointment is made; but no person shall be appointed for a longer term than that for which a member of the board is elected * * *." (91 Ohio Laws, p. 422.)

Four years later, under date of March 11, 1898, section 4017 R. S. was amended to read as follows:

"*Each board of education* shall have the management and control of public schools of the district with *full power to appoint a superintendent* and assistant superintendents of the schools, a superintendent of buildings, janitors and other employes, and fix their salaries, and shall fix the salaries of the teachers, which salaries may be increased, but shall not be diminished during the term for which the appointment is made; but no person shall be appointed for a longer time than that for which a member of the board is elected * * *." (93 O. L., p. 48.)

Under date of April 25, 1904, the general assembly amended section 4017 R. S. to read as follows:

"*Each board of education* shall have the management and control of all of the public schools of whatever name or character in the district, with *full power to appoint a superintendent of the public schools,* truant officers, and janitors and fix their salaries; and, if deemed essential for the best interests of the schools of the district, the board may, under proper rules and regulations, appoint a superintendent of buildings, and such other employes as the board may deem necessary, and fix their salaries; and each board shall fix the salaries of all teachers, which salaries may be increased, but shall not be diminished during the term for which the appointment is made, and teachers shall be paid for all time lost when the schools in which they are employed are closed owing to an epidemic or other public calamity, but no person shall be appointed as a teacher for a term longer than four years, nor for a less term than one year except to fill an unexpired term, the term to begin within four months of the date of the appointment, provided that in making appointments teachers in the actual employ of the board shall be first considered before new teachers are chosen in their stead. * * *. (97 O. L. 360.)

For thirteen years thereafter, or until 1917, the section in question read as above, being carried into the General Code, and was enacted during this period as section 7690 G. C. It will be noted that this authority of each board of education having full power to appoint the superintendent of public schools, obtains through all of the sections above given; it was not even changed in 1914, when the new school code was adopted, on the possible presumption that of course each board of education had full power to appoint a superintendent of public schools where it was authorized by other sections of the statutes to do so. At the session of the general assembly in

1917, section 7690 General Code was amended to read in part (so far as this question is concerned) as follows:

> "Each board of education shall have the management and control of all of the public schools of whatever name or character in the district. It may appoint a superintendent of the public schools, truant officers and janitors and fix their salaries. * * *",

and so it reads today and will continue to be the law until August 25, when House Bill 111, amending section 7690 G. C., will go into effect.

At the recent session of the present general assembly, section 7690 was subdivided into section 7690 G. C. and section 7690-1 G. C., and these two sections now read as follows:

> *Section* 7690. "Each city, village or rural board of education shall have the management and control of all of the public schools of whatever name or character in the district except as provided in laws relating to county normal schools. It may elect, to serve under proper rules and regulations, a superintendent or principal of schools and other employes, including, if deemed best, a superintendent of buildings, and may fix their salaries. * * *."

> *Section* 7690-1. "Each board of education shall fix the salaries of all teachers which may be increased but not diminished during the term for which the appointment is made. Teachers must be paid for all time lost when the schools in which they are employed are closed owing to an epidemic or other public calamity."

The history of section 7690 G. C., which along with section 7620 G. C. gives sweeping powers in a general way to boards of education, is interesting in that it shows that for fifty years the language which now appears in section 7690 G. C., which you quote, relative to each board of education employing a superintendent, has always appeared therein in slightly changed form in all of these different amendments to the section made as above quoted during that long period. It shows that down to March 15, 1892, the policy of the state was that teachers' "salaries or pay shall not be either increased or diminished during the term for which the appointment is made", but on that date it was made to read that teachers' salaries "may be increased but shall not be diminished during the term for which appointment was made". However, the same general assembly two weeks later, under date of March 31, 1892 (89 O. L., 202) amended the law again so as to read that teachers' salaries or pay "shall not be either increased or diminished during the term for which the appointment is made". This same provision was re-enacted in 1894 under date of April 4, but the same general assembly, under date of May 21, 1894, again amended the law so as to read that the salaries or pay of teachers "may be increased but shall not be diminished during the term for which the appointment is made". Since that time (1894) this provision of the law, relative to the salaries of teachers, has obtained. Again, the policy of the state for many years appears to have been that "no person shall be appointed for a longer term than that for which a member of the board is elected". This language was carried when all of these different amendments were made until in more recent years, thus showing the long time policy of the state on a matter of this kind, as regards tenure of teachers.

It is noted that section 7690 G. C., as it now reads (107 O. L.) says that:

> "Each board of education shall have the management and control of all the public schools of whatever name or character in the district" and that "it may appoint a superintendent of the public schools," etc.

Thus the law as it now reads, however, until August 25, 1921, means every board of education in 7690 G. C. including the county board of education and the board of education in exempted village school districts. This language in the present law has been changed from "each board of education" to read "each city, village or rural board of education", with the result that newly amended section 7690 G. C., effective August 25, 1921, leaves out the county board of education and the exempted village board of education. Apparently the general assembly, instead of strengthening this provision in 7690, as it has appeared heretofore, has omitted two kinds of boards of education, viz., county and exempted village district, from the section. It would appear that the author of the newly amended section 7690, desiring to amend the section so as to say something upon normal schools, changed the opening sentence of the section from "each board of education" to "each city, village or rural board of education", leaving out the county board of education and the board of education in the new school district known as an exempted village school district. Thus if section 7690, as newly amended, was strictly construed, it would operate against the county board of education and the board of education in the exempted village school district in not giving them the general powers which are intended for all boards of education under section 7690 G. C. In dividing section 7690 G. C. into 7690 and 7690-1 G. C., the main section (7690) no longer makes any reference to "teachers" but speaks of superintendents and other employes and speaks of the superintendent mentioned as a "superintendent or principal of schools", this being the only instance in the school laws outside of section 7705 G. C., where the word "principal" of schools is mentioned. Section 7690-1 is wholly upon "teachers", including the language that these latter employes may have their salaries increased but not diminished during the term for which the appointment was made. So the only real change made in section 7690 G. C. was to divide it into two sections and include the new normal school amendment. Nowhere in the newly amended section 7690 is there found any indication that the present general assembly desired to give additional power to any board of education different from what has obtained heretofore. When the present Ohio school code (House Bill 13, 104 O. L., p. 133-145) was filed in the office of the secretary of state February 19, 1914, such code made no change in 7690 G. C., but retained the language of section 7690 G. C., appearing in 97 O. L., 360, reading as follows:

> "Each board of education shall have the management and control of all the public schools of whatever name or character in the district. It may appoint a superintendent of public schools * * *."

Yet while keeping 7690 G. C. in the form then in existence, and as it practically reads today, the general assembly abolished township supervision of schools and provided instead thereof that there should be a county school district with a county superintendent and supervision districts throughout the county under the control of district superintendents, thus causing the township superintendents to automatically disappear. Section 7690 has always been read in conjunction with other sections of the school code, in its practical operation. Thus the code provided in section 4684 that:

"Each county, exclusive of the territory embraced in any city school district, and the territory in any village school district exempted from the supervision of the county board of education * * * shall constitute a county school district * * *."

Section 4728 of the code provided that:

"Each county school district shall be under the supervision and control of a county board of education * * *."

Section 4735 of the Code provides that:

"The present existing township and special school districts shall constitute rural school districts until changed by the county board of education. * * *."

The township as a supervision unit absolutely disappeared under the language of 4736 G. C., which read in part as follows:

"The county board of education shall as soon as possible after organizing make a survey of its district. The board shall arrange the schools according to topography and population in order that they may be most easily accessible to pupils. To this end the county board shall have power by resolution * * * to change school district lines and transfer territory from one rural or village school district to another. * * * In changing boundary lines the board may proceed without regard to township lines and shall provide that adjoining rural districts are as nearly equal as possible in property valuation. * * *"

Section 4738 of the school code provided that

"The county board of education shall within thirty days after organizing (1914) divide the county school district into supervision districts, each to contain one or more village or rural school districts. The territory of such supervision districts shall be contiguous and compact. In the formation of the supervision districts consideration shall be given to the number of teachers employed, the amount of consolidation and centralization, the condition of the roads and general topography. The territory in the different districts shall be as nearly equal as practicable and the number of teachers employed in any one supervision district shall not be less than twenty nor more than sixty. * * *."

Section 4739 of the school code provided that each supervision district "shall be under the direction of a district superintendent". Other sections of the General Code might be cited to sustain the view that the general assembly did away with township supervision as a finality in 1914, and created instead county supervision of schools with the county school district as a unit. The county then was divided into supervision districts, each under a district superintendent, and this latter continued until the enactment of Senate Bill 200 by the present legislature, when the position of district superintendent was abolished and there was created instead the position of "assistant county superintendent" to assist the county superintendent in the supervision of the

schools in the county school district. If the legislature abolished township supervision under the school code enacted in 1914, and it must be considered that such was the case, what has been done by the general assembly at any time since that date to re-establish the township supervision which obtained prior to 1914? Clearly nothing, for the present general assembly apparently desiring to curtail the overhead expense of supervision, abolished the position of district superintendent, which had taken the place of the former township superintendents, and by this abolition of the district superintendent it did not intend to create instead a township superintendent of schools, because it provided in section 4739 G. C. that the county superintendent of schools in charge of the county supervision unit should have one or more assistant county superintendents "as may be determined by the county board of education."

Attention is also invited to section 4744-2 of Senate Bill 200, enacted by the present general assembly, providing that:

> "On or before the first day of August of each year, the county board of education shall certify to the county auditor the number of teachers to be employed for the ensuing year in the various rural and village school districts within the county school district, and also the number of assistant county superintendents employed, and their compensation, and the compensation of the county superintendent for the time appointed. * * *."

Section 4744-3 of the same act says that:

> "The county auditor when making his semi-annual apportionment of the school funds to the various village and rural school districts, shall retain the amounts necessary to pay such portion of the salaries of the county and assistant county superintendents * * * as may be certified by the county board."

It is noted here that there is no provision for the county auditor carrying the item of salary for township superintendents in his files, nor is there any authority for boards of education to certify such employment to the county auditor, the certification being limited to "teachers, assistant county superintendents and the county superintendent". Again, if the general assembly intended that the township superintendent should obtain in the near future, there would be no occasion for this language appearing in section 7655-7 G. C., as enacted by the present general assembly, reading as follows:

> "Graduates of any elementary school shall be admitted to any high school without examination on the certificate of the county superintendent or assistant county superintendent."

Aparently from this language there was no intention on the part of the general assembly that there should be a township superintendent of schools. On the other hand, it would appear that the general assembly felt that it had amply provided for supervision of rural schools in its providing for a county superintendent and the assistant county superintendents, for their supervision duties are stated in section 7706 G. C., as amended in Senate Bill 200 (109 O. L.), reading as follows:

> "The county superintendent and each assistant county superin-

tendent shall visit the schools in the county school district, direct and assist teachers in the performance of their duties, and classify and control the promotion of pupils. The county superintendent shall spend not less than one-half of his working time, and the assistant county superintendents shall spend such portion of their time as the county superintendent may designate in actual class room supervision. Such time as is not spent in actual supervision shall be used for organization and administrative purposes, and in the instruction of teachers. * * *."

If there was to be township superintendents of schools in the county school district, then such township superintendents would likely have appeared in section 7706-1 G. C., as appears in Senate Bill 200, 109 O. L., which section says:

"The county superintendent shall, as often as advisable, assemble the teachers, assistant county superintendents and the superintendents provided for under section 4740 of the county school district for the purpose of conference on the course of study, discipline, school, management, and other school work and for the promotion of the general good of all the schools in the county school district."

It will be noted that the township superintendent of schools does not appear in this section, as one of the persons to be assembled for the purposes mentioned therein.

Other sections of the school code might be given at length to show that it was not the intention of the general assembly to re-establish in Ohio what is known as township supervision of schools, but it is believed that enough has been said and a sufficient number of sections cited to show the conflict existing in a practical way between section 7690 G. C. and other sections of the statutes making more detailed and specific mention of school positions and activities. Where the intent of the law-making body is apparent, such intent should govern rather than the ambiguous language of the statute, especially when such statute is in contravention of a series of other statutes. The rule in cases of this kind has been well stated in 25 Ruling Case Law, the following being excerpted from pages 216 to 223, inclusive, under the subject of "Statutes":

"214. The most common occasion for construing statutes is where there is found in a statute some obscurity, ambiguity or other fault of expression; for in that case it is necessary to interpret the law in order to discover the true meaning. And if the legislature has enacted two or more statutes which from their wording appears to be inconsistent, * * * there is an ambiguity * * *. Another occasion for construing a statute is where uncertainty as to its meaning arises not alone from ambiguity of the language employed, but from the fact that giving a literal interpretation to the words will lead to such unreasonable, unjust or absurd consequences as to compel a conviction that they could not have been intended by the legislature.

215. * * * The true rule is that statutes are to be construed as they were intended to be understood when they were passed. Statutes are to be read in the light of attendant conditions and the state of the law existent at the time of their enactment. The words

of a statute must be taken in the sense in which they were understood at the time when the statute was enacted. * * *

216. In the interpretation and construction of statutes the primary rule is to ascertain and give effect to the intention of the legislature. As has frequently been stated in effect, *the intention of the legislature constitutes the law.* All rules for the interpretation and construction of statutes of doubtful meaning have for their sole object the discovery of the legislative intent, and they are valuable only in so far as, in their application, they enable us the better to ascertain and give effect to that intent. Even penal laws, which it is said should be strictly construed ought not to be so construed as to defeat the obvious intention of the legislature.

219. * * * it is well settled that statutes are not to be construed by strict and critical adherence to technical grammatical rules, and that the true meaning, if clearly ascertained, must prevail, though contrary to the apparent grammatical construction. * * *

"222. It often happens that *the true intention of the law-making body,* though obvious, is not expressed by the language employed in a statute when that language is given its literal meaning. In such cases, the carrying out of the legislative intention, which, as we have seen, is the prime and sole object of all rules of construction, can only be accomplished by departure from the literal interpretation of the language employed. Hence the courts are not always confined to the literal meaning of a statute; the real purpose and intent of the legislature will prevail over the literal import of the words. *When the intention of a statute is plainly discernible* from its provisions *that intention is as obligatory as the letter of the statute, and will even prevail over the strict letter.* The reason of the law, as indicated by its general terms, should prevail over its letter, when the plain purpose of the act will be defeated by strict adherence to its verbiage. It is frequently the case that, in order to harmonize conflicting provisions and to effectuate the intention and purpose of the law-making power, the courts must either restrict or enlarge the ordinary meaning of words. The legislative intention, as collected from an examination of the whole as well as the separate parts of a statute, will prevail over the literal import of particular terms, and will control the strict letter of the statute, where an adherence to such a strict letter would lead to injustice, to absurdity, *or contradictory provisions.* It is an old and unshaken rule in the construction of statutes that the intention of a remedial statute will always prevail over the literal sense of its terms, and therefore when the expression is special or particular, but the reason is general, the expression should be deemed general. It is also an old and well established rule of the common law, applicable to all written instruments, that *'verba intentioni, non e contra, debent inservire';* that is to say, words ought to be more subservient to the intent, and not the intent to the words. Every statute, it has been said, should be expounded, not according to the letter, but according to the meaning, for he who considers merely the letter of an instrument goes but skin deep into its meaning. * * * Whenever the legislative intention can be discovered, it ought to be followed with reason and discretion in the construction of the statute, although such construction may seem contrary to the letter of the statute. It is a familiar canon of construction that a thing which is within the intention of the makers of a statute is as much within the statute as

if it were within the letter, and a thing which is within the letter of the statute is not within the statute *unless it be within the intention of the makers.* The principle that if a thing, although within the letter of the law, is not within the intention of the legislature, it cannot be within the statute, has been applied in cases where there was presented a definite evil, in view of which the legislature used general terms with the purpose of reaching all phases of that evil, and thereafter, unexpectedly, it is developed that the general language thus employed is broad enough to reach cases and acts which the whole history and life of the country affirm could not have been intentionally legislated against, or cases which could not have been legislated upon because of constitutional limitations on the legislative power. * * * The letter of a statute must not be unreasonably violated; it is to be sacrificed only so far as is necessary to give effect to the legislative intent. The rule has no application at all where the intention of the legislature, as expressed in the law, is reasonably free from doubt. The rule is to be applied only where there are cogent reasons for believing that the letter *does not fully and accurately disclose the intent.* * * * In order that a statutory provision may be construed differently from its literal meaning, it must be inconsistent with or repugnant to some other provision in or the general purview of the act, * * *.

223. * * * But the meaning of general words must be restricted whenever it is found necessary to do so in order to carry out the legislative intention. Where the literal construction of an act will produce results *so extraordinary* and unjust *that they cannot be deemed to have been within the legislative intent, the general language of the act must be restricted so as to accomplish the general intent* * * *. All laws should receive a sensible construction. General terms should be so limited in their application as not to lead to injustice, oppression, or an absurd consequence, and may be restricted in meaning to adapt their meaning to the subject matter in reference to which they are used. Although the language of a statute is general, it may be limited in its operation to cases falling within the mischief intended to be remedied. * * * It is in the last degree improbable that the legislature would overthrow fundamental principles, infringe rights, or depart from the general system of law, without expressing its intention with irresistible clearness; and to give such effect to general words simply because, in their widest and perhaps natural sense, they have that meaning, would be to give them a meaning in which they were not really used. It is therefore an established rule of construction that general words and phrases, however wide and comprehensive in their literal sense, must be construed as strictly limited to the immediate objects of the act. * * *."

Since the language which you quote in your question has obtained in section 7690 G. C. in its various forms for a long series of years, while other sections of the statutes made specific provision for supervision districts, there arises no occasion to change the language of the opinion of the Attorney-General issued on May 24, 1918, appearing at page 1275, Vol. I, 1918, reading as follows:

"Supervision districts are formed by the county board of education."

If supervision districts could not be formed by boards other than the county board of education in 1918, nothing has been enacted by the general assembly since that time which would give any rural board of education in control of a township the power to provide for supervision of the schools other than that growing out of the county supervision provided for in the Kumler bill (Senate Bill 200) as enacted in 109 O. L.

In reply to your specific question, you are therefore advised that it is the opinion of the Attorney-General that a rural board of education is without authority to elect a superintendent of schools under the general language of 7690 G. C., since the general assembly has provided for county supervision of schools by a county superintendent and such assistant county superintendents as may be selected by the county board of education.

Respectfully,
JOHN G. PRICE,
Attorney-General.

2325.

CIVIL SERVICE—SECTION 486-10 G. C. APPLICABLE TO STATE AND MUNICIPAL COMMISSIONERS—SOLDIERS AND SAILORS ELIGIBLE TO CIVIL SERVICE LISTS OF BOTH COMMISSIONS IN MANNER PRESCRIBED IN ABOVE SECTION.

Section 486-10 G. C. applies to examinations by both state and municipal civil servcie commissions.

COLUMBUS, OHIO, August 12, 1921.

State Civil Service Commission of Ohio, Columbus, Ohio.

GENTLEMEN:—Acknowledgment is made of the receipt of the following inquiry:

> "We are in receipt of an inquiry from C. E. Burke, clerk, civil service commission, Middletown, Ohio, which reads as follows:
> 'Does section 486-10, General Code, apply to municipalities? That is, can soldiers and sailors be placed on the municipal civil service eligible lists in the manner prescribed in said section?'
> This commission would appreciate an opinion from you in this matter."

Section 486-1 G. C. reads, in part:

> "1. The term 'civil service' includes all offices and positions of trust or employment in the service of the state and the counties, cities and city school districts thereof.
> * * * * * *
> 5. The term 'municipal commission' signifies the municipal civil service commission of a city.
> 6. The term 'appointing authority' signifies the offices, commission, board or body having the power of appointment to or removal from positions in any office, department, commission, board or institution.
> 7. The term 'commission' shall signify either the state civil service