1462

BOARD OF EDUCATION—WHERE UNPAID ASSESSMENTS CONTINUE TO BE LIEN UPON PROPERTY PURCHASED BY BOARD.

An assessment becomes a lien from the date of the passage of the assessing ordinance, and where a board of education has purchased real estate upon which assessments are partially unpaid, such unpaid assessments would continue to be a lien upon such property, regardless of who was the owner.

COLUMBUS, OHIO, July 24, 1920.

The Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

GENTLEMEN:—Acknowledgment is made of the receipt of your request for the opinion of this department on the question as to whether real estate required for play grounds by a board of education is exempt from special assessments, such as conservancy, paving, sewer, etc., and whether such special assessment, after having been paid in part by former owners, should be continued under the ownership of the board of education.

Authority for the purchase by a board of education of real estate is found in sections 7620, 2674 and 7647 G. C. Section 5349 G. C. reads in part as follows:

> "Public school houses * * * and the ground attached to such buildings necessary for the proper occupancy, use and enjoyment thereof, and not leased or otherwise used with a view to profit * * * and all lands connected with public institutions of learning, not used with a view to profit, shall be exempt from taxation. * * * *"

In construing the above section of the statutes, the supreme court of this state spoke as follows:

> "The exemption from taxation on property belonging to colleges and academies provided by this section extends to all buildings and lands that are with reasonable certainty used in furthering or carrying out the necessary objects and purposes of such institution." Schnebly vs. Kenyon, 81 O. S., 514.

The answer to a portion of your question appears in opinion No. 1473, issued by the Attorney-General on April 13, 1916, and appearing at page 663, Vol. I, Opinions of the Attorney-General for 1916, a portion of the syllabus reading as follows:

> "No part of the cost of the improvement of a street on which school property, used exclusively for public school purposes, abuts, can be assessed against such property, and the board of education of the school district in which such property is located is neither required nor authorized to pay any part of the cost of said improvement, out of its contingent fund, or to levy a tax for said purposes."

Bearing upon the second portion of your question as to whether such assessments, having been paid in part by former owners, should be continued under the ownership of the board of education, attention is invited to the following:

> "An assessment becomes a lien from the date of the passage of the assessing ordinance." (Cincinnati vs. Lingo, 13 O. C. C., 334; Cincinnati vs. Sterritt, 57 O. S., 654).

It would thus appear that since the assessment becomes a lien upon the property, the same rule would obtain in the case of a board of education purchasing property upon which an assessment had been placed as would govern where such property had been purchased by a private individual; that is to say, if the case should exist that there were unpaid assessments resting upon such property at the time of purchase, the purchaser would be compelled to assume such further assessments in carrying out conditions existing at the time of the contracts. As regards purchases of real estate by boards of education upon which assessments are partially unpaid. the better rule is to have such assessments fully cleared up by the seller at the time of purchase and in practice include these unpaid assessments in the purchase price thus closing any question as to who should pay future unpaid assessments, but if such assessments are not cleared up at the time of sale and purchase, such unpaid assessments, as indicated in the opinion of the court herein, cited, would continue to be a lien upon such property, regardless of who was the owner.

Respectfully,
JOHN G. PRICE,
Attorney-General.

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LUNACY PROCEEDINGS—MEDICAL CERTIFICATE UNDER SECTION 1957 G. C. BECOMES VOID IF PERSON NAMED IN SUCH CERTIFICATE IS NOT ADMITTED TO STATE HOSPITAL WITHIN TEN DAYS FROM DATE OF ISSUE—WHO MAY EXECUTE SECOND MEDICAL CERTIFICATE AND WHO ENTITLED TO WITNESS FEES.

1. *When under section* 1957 *G C. the medical certificate in a lunacy proceeding becomes void because the person named in such certificate is not admitted to a state hospital within ten days from the date of issue, a new inquest is not by that fact rendered necessary.*

2. *In such a case the same medical witnesses, if available, may execute a second medical certificate. Said witnesses are not, however, entitled to extra compensation for their services relative to such second certificate.*

3. *If, however, the medical witnesses who made the first certificate are not available to make a second certificate, when the first has been voided by lapse of time, the probate judge may issue subpoenas for two other medical witnesses, and cause them to execute the the second medical certificate. In such case each of said medical witnesses would likewise be entitled to the fees provided by section* 1981 *G. C., to wit, "five dollars in full for all services rendered."*

COLUMBUS, OHIO, July 24, 1920.

Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

GENTLEMEN:—Your recent letter is at hand, requesting my opinion upon the following questions:

> "Question 1: When the medical certificate in a lunacy proceeding becomes void, under the provi ions of section 1957 G. C., because of the patient named therein not being admitted to a state hospital within ten days from the date thereof, are the same medical witnesses required to make a new certificate without extra compensation, or is a new inquest necessary under the circumstances?
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> Question 2: In the event that the medical witnesses who made the first certificate are not available to make a new one when the first has been voided