

2709.

APPROVAL—AGREEMENT, STATE OF OHIO, THROUGH DIRECTOR OF HIGHWAYS, WITH CHARLES E. DENNEY AND JOHN A. HADDEN, TRUSTEES, PROPERTY ERIE RAILROAD COMPANY AND THE NEW YORK CENTRAL RAILROAD COMPANY, LESSEE OF PROPERTY OF CLEVELAND, CINCINNATI, CHICAGO AND ST. LOUIS RAILWAY COMPANY, ELIMINATION OF GRADE CROSSINGS OVER TRACKS DESIGNATED ON STATE HIGHWAY NO. 60, CLARK COUNTY, OHIO, FEDERAL AID GRADE CROSSING PROJECT NO. FAGH-681-I.

COLUMBUS, OHIO, July 14, 1938.

MR. JOHN JASTER, JR., *Director Department of Highways, State Office Building, Columbus, Ohio.*

DEAR SIR: You have submitted for my examination and approval copy of an agreement to be executed in triplicate by and between the State of Ohio, acting by and through John Jaster, Jr., Director of Highways of the State of Ohio, Charles E. Denney and John A. Hadden, as trustees of the property of the Erie Railroad Company and the New York Central Railroad Company, lessee, of the railway and property of the Cleveland, Cincinnati, Chicago and St. Louis Railway Company providing for the elimination of the grade crossings over the tracks of the Erie Railroad Company and the New York Central Railroad Company on State Highway, No. 60, located at a point in Clark County, Ohio, and known as Federal Aid Grade Crossing Project No. FAGH-681-I.

Said agreement is in accordance with the provisions of the Federal Road Aid Act of 1916, as amended by Act of Congress, approved June 16, 1936, and the enabling clauses of Sections 1228-1 and related sections of the General Code of Ohio and is to determine and agree upon the manner of doing said work and the preparation of costs and expenses to be paid by each of the parties thereto, as provided by law.

After due consideration thereof, I find said agreement in proper legal form and that the same will constitute a binding agreement by and between the parties thereto when properly executed on behalf of the State of Ohio.

I am, therefore, returning herewith copy of said agreement, together with this, my formal approval as to form thereof.

Respectfully,

HERBERT S. DUFFY,  
*Attorney General.*

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2710.

BURIAL OF A SOLDIER OR HIS MOTHER, WIFE OR WIDOW—SECTION 2950, GENERAL CODE, NOT APPLICABLE TO OHIO NATIONAL GUARD—UNLESS MEMBER IN SERVICE OF UNITED STATES IN EXERCISE OF FEDERAL AUTHORITY—ARTICLE I, SECTION 8, CLAUSE 15, FEDERAL CONSTITUTION.

*SYLLABUS:*

*The provisions of Section 2950, General Code, relating to the burial of a soldier or his mother, wife or widow, are not applicable in the case of a member of the Ohio National Guard unless such member has served in the National Guard while it was in the service of the United States, pursuant to the exercise of federal authority contained in Article I, Section 8, Clause 15 of the Federal Constitution.*

COLUMBUS, OHIO, July 15, 1938.

HONORABLE GEORGE E. GERHARDT, *Prosecuting Attorney, Pickaway County, Circleville, Ohio.*

DEAR SIR: You recently requested my opinion on the following question: Is the Board of County Commissioners authorized under the provisions of Section 2950, General Code, to defray the burial expenses of the mother, wife or widow of a resident of Ohio, who has served as a member of the Ohio National Guard, as this organization is now related to the federal government under the provisions of the National Defense Act?

Section 2950 of the General Code provides:

“The county commissioners of each county shall appoint two suitable persons in each township and ward in the county, other than those prescribed by law for the care of paupers and the custody of criminals, who shall, with the approval of the family or friends of the deceased, contract at