

performs all the services, the latter judge may not collect the fee for his own use.

In other words, no question can arise as to those judges who were not entitled to fees, prior to February 9, 1925; and no fee is collectible by those judges who only complete the proceedings begun by those not entitled to the fee. As between two probate judges who would each be entitled to the fee if he had performed the entire service, neither is entitled to the fee for the partial performance of said service.

It is therefore believed that in accordance with the opinion referred to, the answer to your first question is that neither judge is entitled to the fee.

In answering your second question, the probate judge is not entitled to the fee for his personal use but should account for same to the county treasury.

In answering the third question, the succeeding judge is not entitled to retain the fees for his own use in proceedings filed prior to February 9th, but not determined on that date.

Respectfully,
C. C. CRABBE,
Attorney General.

2375.

AUTHORITY OF ENTRANCE EXAMINER UNDER PROVISIONS OF SECTION 1270 G. C. DISCUSSED.

SYLLABUS:

Under section 1270, General Code, the entrance examiner may refuse to accept a certificate of graduation from a legally constituted high school if his examination shows that same was not secured after a four year course of study.

COLUMBUS, OHIO, April 13, 1925.

HON. H. M. PLATTER, *Secretary State Medical Board, Columbus, Ohio.*

DEAR SIR:—I am in receipt of your communication as follows:

“Section 1270 of the General Code of Ohio states, among other things, that the following educational credentials shall be sufficient for a preliminary certificate, viz.: ‘A diploma from a legally constituted normal school, high school or seminary issued after four years of study.’

“Recently a certificate of graduation from a private first grade high school in Cleveland was sent to this office for one M. L. M. I had reason to question the validity of the credits upon which this certificate of graduation was issued. In digging into the matter I found that M. L. M. came to this country after having studied supposedly at an out of the way place in the Carpathian Mountains in Hungary. He had no papers, no credits, no affidavits, not anything to show from this school.

“However, he presented his case to the State Department of Education and they allowed him ten units of credit for this work. According to American Standards he should then have been sixteen and one-half years of age to achieve this credit in an American high school. He told me, however, that he left Hungary before he was sixteen.

"So far as this office is concerned, we would refuse absolutely to accept any credit from this school under the circumstances.

"M. L. M. then took his ten units of credit to the State High School, a private first grade institution in Cleveland, and they graduated him after about one year of study which he did mostly at nights while attending the chiropractic college.

"From our standpoint in this office the procedure he followed is entirely irregular and we could not accept that evaluation of his credits.

"The question I now wish to raise is, can I, as Entrance Examiner, under section 1270 of the General Code of Ohio, refuse to accept this certificate of graduation from the State High School in Cleveland—a private first grade institution.

"I wrote to Mr. Bliss of the State Department of Education and asked him if it was legal for a principal of a first grade high school to accept credit on affidavit. I received the following reply: 'It is not allowable for a principal of a first grade high school to accept credit toward graduation from a foreign school merely by taking the candidate's own sworn statement'. Mr. Bliss further says in a letter that it is not customary for the principal of a first grade high school to examine a student for high school credit. M. L. M. was not examined in the case cited above.

"I noticed also in reading the particular part of Section 1270 of the General Code that it says 'Graduation ** from a high school or seminary after *four* years of attendance.' (M. L. M.'s attendance was about one year.)

"I would appreciate very much your co-operation in the matter of this case, as it is typical of many others that may arise in case we are compelled to 'swallow' what we claim is not the proper procedure."

Section 1270, General Code, reads as follows:

"The state medical board shall appoint an entrance examiner who shall not be directly or indirectly connected with a medical college and who shall determine the sufficiency of the preliminary education of applicants for admission to the examination. The following preliminary educational credentials shall be sufficient:

"A diploma from a reputable college granting the degree of A. B., B. S., or equivalent degree.

"A diploma from a legally constituted normal school, high school or seminary, issued after four years of study.

"A teacher's permanent or life certificate.

"A student's certificate of examination for admission to the freshman class of a reputable literary or scientific college.

"In the absence of the foregoing qualifications, the entrance examiner may examine the applicant in such branches as are required for graduation from a first class high school of this state, and to pass such examination shall be sufficient qualification. If the entrance examiner finds that the preliminary education of the applicant is sufficient, he shall, upon payment to the treasurer of the state medical board a fee of three dollars, issue a certificate thereof, which shall be attested by the secretary of the state medical board.

"The applicant must also produce a certificate issued by the entrance examiner and a diploma from a legally chartered medical institution in the United States, in good standing, as defined by the board, at the time the diploma was issued, and which institution, subsequent to May 1st, 1913, re-

quires for admission for the degree of M. D., to such institution, a preliminary education equal to that required for graduation from a first-grade high school in this state, or a diploma or license approved by the board which conferred the full right to practice all branches of medicine or surgery in a foreign country."

It will be noted that section 1270 provides that the entrance examiner of the State Medical Board shall determine the sufficiency of the preliminary education of applicants for admission to examination. This section further provides that certain preliminary educational credentials shall be sufficient. Among the educational credentials which shall be deemed sufficient will be found "a diploma from a legally constituted normal school, high school or seminary, issued after four years of study." The statute further provides that in the absence of the foregoing qualifications, the entrance examiner may examine the applicant in such branches as are required for graduation from a first class high school of this state. It will be noted that the only qualification of any of the preliminary educational credentials which shall be sufficient is the one relating to a legally constituted normal school, high school or seminary, and this qualification is, "issued after four years of study."

If the use of the words "issued after four years of study" was not intended as a qualification of such a diploma, it would be superfluous and nothing would be added to the requirement by providing that it should be issued after four years of study. If this is a qualification, then it would be permissible for the entrance examiner to go back of the diploma and determine whether it was issued after four years of study. If the use of the words "issued after four years of study" was for the purpose only of designating a high school as a first class high school, the statute could have said so in so many words and it would have been much clearer as to the intent.

It is believed that the only diploma from a legally constituted high school which can be accepted as sufficient for a preliminary educational credential can be a diploma which is issued after four years of study. As the diploma itself would not show whether the same was issued after four years of study or not, the only way this matter could be determined would be by the entrance examiner.

It is therefore my opinion that under section 1270, General Code, the entrance examiner may refuse to accept a certificate of graduation from a legally constituted high school if his examination shows that same was not secured after a four year course of study.

Respectfully,

C. C. CRABBE,

Attorney General.

2376.

OBSERVANCE OF MEMORIAL DAY—MUNICIPALITY MAY MAKE APPROPRIATION TO PAY EXPENSES OF OBSERVANCE UNDER PROVISIONS OF SECTION 2503 G. C.

SYLLABUS:

Under the provisions of Section 2503 of the General Code, any municipality may co-operate in the observance of Memorial Day with the township within which it is located, or with the county, and may make an appropriation in any amount council may deem necessary to pay the expenses of its co-operation in such observance of