

(1) The compensation of county commissioners for services on improvements undertaken in conformity with the New Ditch Code (sections 6442, et seq. 108 O. L. 926) is to be paid in accordance with section 57 of said code, even though the commissioners may have taken office before said code became effective.

(2) The compensation of county commissioners, and the fees of clerks of courts for services in ditch matters under said New Ditch Code, are to be treated as part of the cost of the improvement, are to be paid out of the general ditch improvement fund, and are to be included in the assessment against affected lands.

Respectfully,

JOHN G. PRICE,  
*Attorney-General.*

998.

INHERITANCE TAX LAW—WORDS "BROTHER" AND "SISTER" IN PARAGRAPH 3 OF SECTION 5334 G. C. INCLUDE HALF-BROTHERS AND HALF-SISTERS.

*The words "brother" and "sister" as found in paragraph 3 of section 5334 of the General Code (the inheritance tax law) include half-brothers and half-sisters.*

COLUMBUS, OHIO, February 10, 1920.

*Tax Commission of Ohio, Columbus, Ohio.*

GENTLEMEN:—Receipt is acknowledged of your letter of January 26th requesting the opinion of this department on the question as to whether or not the words "brother" and "sister," as found in paragraph 3 of section 5334 of the General Code (the inheritance tax law), include half-brothers and half-sisters.

The part of the law to which you refer is that defining the classes of successions for the purposes of the exemption. It is in full as follows:

3. When the property passes to or for the use of a brother, or sister, niece, nephew, the wife or widow of a son, the husband of a daughter of the decedent, or to any child to whom the decedent, for not less than ten years prior to the succession stood in the mutually acknowledged relation of a parent, the exemption shall be five hundred dollars."

It might be pertinent to quote the entire section, but it is believed sufficient to remark that nowhere in that section nor in the entire law is any mention made of a distinction between relatives of the whole blood and relatives of the half blood.

The inheritance tax laws of other states contain similar provisions but, curiously enough, no authority seems to be available upon the precise question.

However, in a remote sense at least the inheritance tax law is in *pari materia* with the statutes of descent and distribution. In the latter sections, quotation of which may be omitted, we find use made of the terms "brothers and sisters of the intestate who are of the blood of the ancestor from whom the estate came." (Sec. 8573); "brothers and sisters of such ancestors" (Sec. 8573); "brothers and sisters of the half-blood of the intestate \* \* \* though such brothers and sisters are not of the blood of the ancestor from whom the estate came" (Sec. 8573); "half-brothers and sisters of the intestate" (Sec. 8573); "brothers or sisters of the intestate of the whole blood" (Sec. 8574); "brothers and sisters of the half-blood" (Sec. 8574); "brothers and sisters of

any such husband or wife" (Sec. 8576); "brothers and sisters of such intestate" (Sec. 8577); "brothers and sisters of such deceased husband or wife" (Sec. 8577).

It would seem to be clear even at a glance that in the above named sections the phrase "brothers and sisters," *when not qualified*, includes brothers and sisters of the half-blood as well as those of the whole blood. In other words, though for certain purposes the general assembly has chosen to discriminate between the whole blood and the half-blood, yet this discrimination is always effected by means of qualifying the words "brothers and sisters" by the addition of other words. Hence, the conclusion seems reasonable that in dealing with inheritance the legislature has used the simple words "brother and sister" to include both the half-blood and the whole blood. This has been the judicial interpretation of these sections.

Cliver vs. Sanders, 8 O. S. 502;  
White vs. White, 19 O. S. 531;  
Stockton vs. Frazier, 81 O. S. 227.

The syllabus in the last cited case is as follows:

"The half-brothers and half-sisters of the ancestor are included in the words, 'brothers and sisters of such ancestors,' in the fifth subdivision of Section 4158, Revised Statutes, prescribing the order of descent of ancestral real estate."

The opinion of Judge Summers in the case contains an interesting commentary upon the philosophical justification (or lack of it) for making any distinction between the half-blood and the whole blood (see pp. 236 et seq.).

Lexicographic definitions are as follows:

"*Brother*":

"a male person who has the same father and mother with another person, or *who has one of them*."

(Webster).

"a male person having the same *parent* or parents as another or others."

(Standard Dictionary.)

These definitions, which purport to state the natural meaning of such terms, have been followed under statutes of descent and distribution in

Anderson vs. Bell, 140 Ind. 375; 29 L. R. A. 541;  
State vs. Guiton, 51 La. Ann. 155;  
Lynch vs. Lynch, 132 Cal. 214;  
Gardner vs. Collins, 27 O. S. 58;  
Sheffield vs. Lovering, 12 Mass. 490;  
Rowley vs. Stray, 32 Mich. 70;  
Clay vs. Cousins, 17 Ky., 75;  
Marlow vs. King, 17 Texas, 177.

A contrary result was reached under Johnson's definition in Lawson vs. Perdriaux, 1 McCord, 456.

It is supposed that a careful examination would disclose an expansion of the usage with respect to these terms. It is quite possible that the term "brother" or "sister" may have been originally used in the restricted sense; but it is clear from the foregoing authorities that, at least in America, present usage of these terms, unqualified, imports the broader and more liberal meaning.

For these reasons, it is the opinion of this department that the words "brother" and "sister" as found in paragraph 3 of section 5334 of the General Code include half-brothers and half-sisters.

Respectfully,  
 JOHN G. PRICE,  
*Attorney-General.*

999.

**DRY CLEANING ESTABLISHMENT—WHERE PERMIT EXTENDS UNTIL FIRST DAY OF JANUARY NEXT AFTER DATE OF ITS ISSUE—HOLDER OF PERMIT HAS NO AUTHORITY TO CONDUCT BUSINESS IN ANOTHER BUILDING—RENEWED PERMIT DISCUSSED.**

1. *A permit to use a building or establishment for dry cleaning or dry dyeing, issued under section 4 of the act of April 14, 1919 (108 O. L. 306; section 843-22 G. C.), extends until the first day of January next after the date of its issue, unless renewed under authority of section 5 of the act (section 843-23 G. C.).*

2. *The mere fact that the holder of a permit intends at some future time to remove his business to another location, will not excuse him from having his permit renewed under section 5 of the act (section 843-22 G. C.), in case he desires to continue in business at his present location after the expiration of his permit.*

3. *A permit issued under section 4 of the act (section 843-22 G. C.) to conduct a dry cleaning or dry dyeing business in a certain building or establishment, confers no authority upon the holder to conduct his business in another building or establishment.*

COLUMBUS, OHIO, February 20, 1920.

HON. WILLIAM J. LEONARD, *State Fire Marshal, Columbus, Ohio.*

DEAR SIR:—Your letter of recent date propounding certain questions arising under the act passed April 14, 1919, (108 O. L. 306, Part I), which provides for the inspection of dry cleaning and dry dyeing buildings and establishments, was duly received.

The provisions of the act in so far as they are necessary to a proper determination of your questions will be briefly referred to.

Section 2 of the act (section 843-20 G. C.) provides that:

"No building or establishment shall be used for the business of dry cleaning or dry dyeing \* \* \*, until an application for permission to do so shall have been filed with and approved by the state fire marshal of the state of Ohio," etc.

By section 3 of the act (section 843-21 G. C.) an applicant for a permit is required to pay to the state fire marshal a filing and inspection fee of \$10.00.

By section 4 of the act (section 843-22 G. C.) it is provided that when an application for a permit is filed and the fee paid, the state fire marshal, his deputies or assistants

"shall make an inspection of such building, buildings or establishments, and if the same conforms to the requirements of law and rules which may be prescribed by the state fire marshal for such places, then the state fire marshal shall issue a permit to the applicant for the conduct of such business, which