

of personal property that has been listed and assessed in the current year in another state providing certain provisions of the section are complied with.

A statement of this kind may be secured from the taxing officials of Pennsylvania or the sub-division, and it is therefore my opinion that unless such statement is secured and the provisions of said section complied with, that the county auditor is authorized to place the automobile on the tax duplicate for the current year.

Respectfully,

EDWARD C. TURNER,
Attorney General.

302.

PUBLIC DANCE—CONSTRUING SECTION 13393, GENERAL CODE.

SYLLABUS:

In a given case where a public notice is given through the press or otherwise that a dance will be given at a particular time and place, and that everybody is invited, and where upon the assemblage of the parties interested in the dance and who propose to attend the same, printed invitations are handed out to the prospective dancers before appearing upon the dance floor, the proposed dance in question is a public dance and will require a permit under the provisions of Section 13393, General Code of Ohio.

COLUMBUS, OHIO, April 8, 1927.

HON. J. S. McDEVITT, *Prosecuting Attorney, Mt. Vernon, Ohio.*

DEAR SIR:—This will acknowledge receipt of your recent communication requesting my opinion as follows:

"My question is relative to Section 13393, General Code of Ohio, and pertains to public dances, etc. without permit. The particular dance hall in question has been operating as a private dance hall and they conduct their dances in the following manner. A set form of invitation is printed and kept in the custody of the manager of the dance. Frequently advertisements are run in the paper announcing that there will be a dance at this particular place on a certain date, everybody invited. Then as the guests gather at the appointed hall these above mentioned printed invitations are handed out to all those present and they have one in their possession before they enter on the dance floor to dance. The question which I am asking is whether under the terms of the above mentioned statute this would be considered a private dance or whether it would be public and to be legal would require permission from the Probate Judge as stated in the statute.

Section 13393 General Code provides:

"No person shall give a public dance, roller skating or like entertainment in a city, village or township without having previously obtained a permit from the mayor of such city or village if such public dance, roller skating or like entertainment is given within the limits of a municipal corporation, or from the probate judge if such public dance, roller skating or like entertainment is given outside a city or village, or permit another so to do. All permits issued under the authority of this section shall be subject to revocation at all times. The provisions of this section shall not apply to charter cities where the licensing authority is vested in some other officer than the mayor."

The particular part of the section involved in your inquiry is what constitutes a "public dance." In the case of *Rowland vs. The State of Ohio*, 104 O. S. 366, the court in construing this section used the following language:

"It should be observed that the statute in a general way outlaws 'a public dance.' It is conceded in this case that the defendant gave a public dance charging admission thereto, and that as many of the public as could pay the admission were eligible to attend such dance."

And again on page 369 the court said:

"The legislature declared public policy to be against public dances in cities and villages, unless the one giving such dance should secure a permit from the mayor * * *. In short, it was left to the judgment and discretion of the mayor, having regard to the local condition in the city or village, to determine whether or not public dances might be allowed notwithstanding the statute. * * * It is not sought to restrain the use of property as to all dancing, but only as to public dances, where all classes of people, regardless of morals, health, peace, or safety, are permitted to assemble, hodge podge, and associate together."

The court in the above entitled case held that the above mentioned section is a valid and constitutional enactment notwithstanding the fact that it gives the mayor full power and authority to issue or refuse to issue such permit to any and all persons within the city or village and without giving reasons therefor, and that such exercise of power is not arbitrary abuse of power on the part of the mayor. And that he is the proper representative of the people of the city or village so far as the public morals, peace, safety and welfare are concerned, to determine as head of the local government whether or not a public dance should be given at the time and place in question.

What is a public dance? Webster defines public as pertaining to, or belonging to the people; relative to a nation, state, or community;—opposed to *private* * * * the people, indefinitely. In volume 6 of *Words and Phrases* at page 5772, we find the following:

" 'Public,' is a convertible term, and, when used in an act of assembly, may refer to the whole body politic—that is, all the inhabitants of the state—or to the inhabitants of a particular place only. It may be properly applied to the affairs of a state, or of a county, or of a community. In its most comprehensive sense, it is the opposite of 'private.'

The term 'public' is opposed to the term 'private' and according to the best lexicographers means pertaining to or belonging to the people, relating to a nation, state, or community; but to make a matter a public matter it need not pertain to the whole nation or state. It is sufficient if it pertains to any separate or distinct portion thereof, or community."

You state in your letter that the dance hall in question has been pretending to operate as a private dance hall and that invitations are printed and kept in the custody of the manager of the dance; that advertisements are run in the newspapers in the vicinity announcing that there will be a dance at the particular place in question and on a certain date and that "everybody is invited." Then upon the assemblage of the interested parties, invitations are handed out personally to all who come, so that when they appear on the dance floor they are in possession of one of the printed invitations prepared in advance to be handed to all who appear.

Upon an examination of the facts as declared in your letter in connection with

the authorities above mentioned, it is my opinion that the dance given in the manner detailed herein, is a public dance and comes within the provision of Section 13393, General Code, requiring a permit.

Respectfully,
EDWARD C. TURNER,
Attorney General.

303.

APPROVAL, ENCUMBRANCE ESTIMATE AND OTHER PAPERS IN CONNECTION WITH ABSTRACT OF TITLE TO LAND IN AUBURN TOWNSHIP, GEAUGA COUNTY.

COLUMBUS, OHIO, April 8, 1927.

HON. GEORGE F. SCHLESINGER, *Director, Department of Highways and Public Works, Columbus, Ohio.*

DEAR SIR:—Receipt is acknowledged of your letter under date of April 8, 1927, submitting for my examination the following papers in connection with the proposed purchase of real estate for state highway purposes located in Auburn township, Geauga county, Ohio:

Encumbrance Estimate No. 1868,
Controlling Board's action, dated May 25, 1926.
Tax receipt showing total tax for the year 1926 paid.

The tax receipts indicate that the taxes for all of the year 1926 amounting to \$16.46 have been paid, which would include the taxes due and payable at the June 1927 tax collection. The action of the Controlling Board appears to be regular and the encumbrance estimate dated May 25, 1926, is also in proper form and bears the certificate of the Director of Finance to the effect that there are unencumbered balances legally appropriated sufficient to pay for the items noted on said encumbrance estimate.

I am accordingly approving the above papers and returning the same to you herewith, together with the warranty deed for the property above referred to.

Respectfully,
EDWARD C. TURNER,
Attorney General.

304.

APPROVAL, FINAL RESOLUTIONS ON ROAD IMPROVEMENTS IN PREBLE COUNTY, I. C. H. No. 1.

COLUMBUS, OHIO, April 9, 1927.

Department of Highways and Public Works, Division of Highways, Columbus, Ohio.