

As above indicated, if, in the discretion of the trustees and the commissioners, the evidence establishes the fact that the sheep which were bitten by the dog were so injured as to render them valueless or to demand their being killed because afflicted with rabies, they would be warranted in allowing compensation for the damages sustained by the owner.

Respectfully,

JOHN G. PRICE,
Attorney-General.

1534.

SCHOOLS—DISTRICTS MAINTAINING SECOND AND THIRD GRADE HIGH SCHOOLS—ELECTORS REFUSED TO AUTHORIZE ADDITIONAL LEVY ALTHOUGH MAXIMUM LEVY PERMITTED BY LAW NOT REACHED—BOARD OF EDUCATION NOT RELIEVED OF PAYING TUITION OF GRADUATES ELIGIBLE TO HIGH SCHOOL, RESIDENTS OF DISTRICT.

School districts maintaining second and third grade high schools, have not reached the maximum levy permitted by law, as provided in section 7748 G. C., where the electors in such school district, at a special election held on August 10, 1920, refused to authorize the additional levy allowed under the provisions of section 5649-5 and section 5649-5a, submitted at such election under authority of section 3 of House Bill 615 (108 O. L. 1303), and the board of education is not relieved of paying the tuition of graduates eligible to high school who are residents in such school district.

• COLUMBUS, OHIO, August 30, 1920.

HON. VERNON M. RIEGEL, *Superintendent of Public Instruction, Columbus, Ohio.*

DEAR SIR:—Acknowledgment is made of the receipt of your letter of August 16, 1920, in which you request the opinion of this department upon the following statement of facts:

“Section 7747 G. C. provides that the county superintendent shall issue to pupils who have completed the elementary school work and who have been so certified by the district superintendent, a certificate of promotion which shall entitle the holder to admission to any high school. Section 7748 G. C. provides that a board of education, ‘maintaining a third grade high school, as defined by law shall be required to pay the tuition of graduates from such school residing in the district at any first grade high school for two years, or a second grade high school for one year * * *. A board maintaining a second or third grade high school is not required to pay such tuition when the maximum levy permitted by law for such district has been reached and all the funds so raised are necessary for the support of the schools of such district * * *.’ In some districts maintaining such high schools, the electors at a special election held on August 10, 1920, refused to authorize an additional levy under the provisions of sections 5649-5 and 5649-5a G. C., and consequently are not entitled to participate in the reserve fund of \$500,000.

“Has the ‘maximum levy permitted by law’ as provided in section 7748 been reached in such cases and is the board thus relieved of paying the tuition of graduates above mentioned?”

"If the board is relieved of the payment of tuition of such pupils, who shall pay it, since section 7747 provides that these pupils shall be admitted to any high school and that their tuition shall be paid by the district in which they reside?

"If the district in which they reside is not required to pay the tuition, must the parents of such children pay it, and if they refuse to do so, can any high school which the pupils are attending refuse to admit them?"

Reference to section 7747 and section 7748 G. C. shows that you have correctly quoted the law upon the points at issue. The special election indicated by you as being held on August 10, 1920, was held under the provisions of the last paragraph of section 3 of House Bill 615, which provided that the question of authorizing an additional levy for school purposes, under the provisions of sections 5649-5 and 5649-5a G. C. might be submitted at such special election in advance of the regular November election mentioned in section 5649-5a G. C. You say in a number of districts maintaining second and third grade high schools, the electors at such special election on August 10, 1920, refused to authorize the additional levy permitted under sections 5649-5 and 5649-5a, and your question is whether these districts have reached "the maximum levy permitted by law," as provided in section 7748.

Attention is invited to the fact that section 7748 G. C. says "the maximum levy permitted by law," and this does not mean the maximum levy voted by law. The very purpose of House Bill 615, in its treatment of sections 5649-5 and 5649-5a was to raise the maximum levy permitted by law and electors could hardly be in the position of voting upon a further levy unless such levy was permitted by law, as was the case in the special school election held on August 10, 1920, wherein the authorization allowed under sections 5649-5 and 5649-5a was submitted. A school district which had failed to vote in the affirmative on the increased levy on August 10, 1920, would clearly not have reached "the maximum levy permitted by law" in that district, because in such election the electors failed to take advantage of a levy in addition to present levies, which was clearly "permitted by law."

The answer to your first question then is, that school districts maintaining second and third grade high schools, have not reached the maximum levy permitted by law, as provided in section 7748 G. C., where the electors in such school district, at a special election held on August 10, 1920, refused to authorize the additional levy allowed under the provisions of section 5649-5 and section 5649-5a, submitted at such election under authority of section 3 of House Bill 615 (108 O. L. 1303), and the board of education is not relieved of paying the tuition of graduates eligible to high school who are residents in such school district.

Inasmuch as the board of education is not relieved of the payments of the tuition indicated by you, and the district is required to pay the tuition until the maximum levy permitted by law is reached, your second and third questions require no answer.

Respectfully,

JOHN G. PRICE,

Attorney-General.