

such loss or injury occurred. A consideration of the wording contained in the section negatives the possible construction that the words "loss or injury" refer to financial loss to the owner of such animals, thus placing the duty of paying for such injuries upon the county where the animals are returned for taxation.

That the county where the injury to the animals occurred should bear the loss is apparent from a consideration of the fact that claims for such injuries are to be paid from the county dog and kennel fund, established under the provisions of Section 4846, General Code, which fund is created from the proceeds of dog and kennel licenses issued in the county and not from funds provided from the proceeds of general taxation. To penalize the county of the owner's residence by requiring it to pay for damages caused by an act outside of its jurisdiction which it is powerless to control and the prevention of which act is under the jurisdiction and control of an adjoining county, is contrary to reason.

A consideration of the foregoing impels the conclusion that upon complying with the statutory requirements, the owner of the sheep in question is entitled to recover damage done to such sheep by dogs from the county in which the injury to such sheep occurred.

Respectfully,
GILBERT BETTMAN,
Attorney General.

3964.

COMPLIMENTARY COMMISSION—MAY BE ISSUED TO RESIDENT
OF THIS STATE WHO WAS NOT RESIDENT OF STATE WHEN
HE ENTERED MILITARY SERVICE.

SYLLABUS:

A complimentary commission may be issued to any resident of Ohio who, as a soldier, sailor, marine or aviator, has been awarded the Medal of Honor or the Distinguished Service Cross or the Silver Citation Star by the United States of America for the most distinguished gallantry, although at the time of his entrance into said service he was a resident of another state.

COLUMBUS, OHIO, January 19, 1932.

HON. FRANK D. HENDERSON, *Adjutant General of Ohio, Columbus, Ohio.*

DEAR SIR:—Your recent communication reads:

"An opinion is requested whether or not Sections 14867-9 to 13 may be construed to provide for the issue of a complimentary commission to each soldier, sailor, marine or aviator, who has been awarded the Medal of Honor or the Distinguished Service Cross, or the Silver Citation Star by the United States of America, for the most distinguished gallantry, who at the time of his entrance into said service, was a resident of another state."

Section 14867-9, General Code, to which you refer, reads:

"That the governor or his representative is hereby authorized and directed to request citizens of the state of Ohio, to voluntarily, and with-

out cost to the state, ascertain and report the name and address of each soldier, sailor, marine or aviator in their vicinity (or former address if dead), who has been awarded the Medal of Honor or Distinguished Service Cross or the Silver Citation Star, by the United States of America, for most distinguished gallantry, to the adjutant general or other authorized official, who shall request satisfactory evidence as to authentic official possession of said decoration."

Section 14867-10, General Code, authorizes the issuance of complimentary commissions without compensation to the persons described in section 14867-9, *supra*.

Section 14867-11, General Code, reads as follows:

"The said complimentary commission to be exclusively an official recognition by the state of Ohio, of the particular deed of most distinguished gallantry for which the decoration was awarded by the United States of America, and to bear date corresponding to the date of performance of the deed of gallantry mentioned in said award."

Section 14867-12, General Code, sets forth in full a recital of the commission and concludes, "and herein mentioned deed of most distinguished gallantry, has been duly recorded in detail in the archives of the state of Ohio, as a Special State Roll of Honor."

Section 14867-13, General Code, reads:

"The said commission shall be entirely distinct from, and shall not affect any award of service or other medals, that the soldier, sailor, marine or aviator may receive from the nation, state or other source, for foreign or other service, or wounds, and shall be brevet, without compensation or authority, and carry no right to wear a national or state uniform or insignia not sanctioned by law and shall not conflict with any national or state military regulations."

An examination of the terms of section 14867-9 does not disclose any requirement that the person to be honored should have been a resident of Ohio at the time of his entrance into the service. The section merely authorizes the governor to request people in the vicinity of the soldier, sailor, marine or aviator, who rendered distinguished service, to report such person to the adjutant general or other authorized official for proper recognition.

Section 14867-11 intimates that it is the deed of distinguished gallantry which is sought to be recognized by the state. This intimation is further strengthened by a consideration of the fact that section 14867-12 requires that the deed of distinguished gallantry is to be recorded in detail in the archives of the state of Ohio, as a Special Roll of Honor.

While your inquiry does not specifically raise the question, it seems clear from the phraseology of the statute that the legislature intended this honor to be conferred upon residents of the state. You will note that such limitation is not expressed in the statute, but the award of the commission is to be made through the agency of reports by citizens with respect to individuals "in their vicinity" who may be eligible. The use of this phrase is, I think, clearly indicative of an intention that the honor is designed for Ohio residents, although, as I have heretofore indicated, the place of residence at the time of entrance into the service of the United States is immaterial.

I am accordingly of the opinion that the honors accorded by the state under

the provisions of section 14867-9, et seq., of the General Code are limited to persons residing in Ohio at the time of the award, but that, in view of the evident purpose of the sections to honor those whose special bravery merited special recognition by the United States government, irrespective of the branch of service or particular unit thereof, such award may be made to any person who has been awarded the Medal of Honor or the Distinguished Service Cross or the Silver Citation Star by the United States of America for the most distinguished gallantry, although at the time of entrance into the service such person was a resident of another state.

Respectfully,
GILBERT BETTMAN,
Attorney General.

3965.

PARK CONCESSIONS—PRIVATE PERSON MAY SECURE LICENSE
WHEN—SALE AND DISTRIBUTION OF PROFITS FROM NATURAL
PRODUCTS OF PARK.

SYLLABUS:

1. *The Board of Trustees of The Ohio State Historical Society, where not expressly prohibited, has the power to grant to private parties a license to erect and use refreshment booths in the public parks confided to its charge, providing the Society retains the right of supervision, regulation and control, providing such use is not inconsistent with the purpose for which a particular park may have been created and providing the booths are not placed in such numbers or such a manner as to interfere unreasonably with the free and uninterrupted use of the land by the public as a park.*

2. *The Society has the right to grant a license for carrying on such concessions, not inconsistent with the purpose for which a particular park may have been created, as fall properly within the category of park purposes, if the operation of such concessions does not unreasonably interfere with the free and uninterrupted use of the land by the public as a park.*

3. *The Society has the right to sell such agricultural products as are derived from the park land naturally, but it has no right to engage in an affirmative program of farming.*

4. *Profits derived from said parks must, under Section 2288, General Code, be paid into the nearest convenient county treasury or the state treasury, as the state treasurer directs.*

COLUMBUS, OHIO, January 19, 1932.

HON. C. B. GALBREATH, *Secretary, The Ohio State Historical Society, Columbus, Ohio.*

DEAR SIR:—Recently I received the following communication from you:

“The Ohio State Archaeological and Historical Society holds and administers in trust for the State, a number of park properties. I am directed by the Board of Trustees of that Society to ask your opinion in regard to earnings of such properties.

Does the Board of Trustees of the Society have authority to enter