

1553.

APPROVAL, RESOLUTIONS FOR SALE OF ABANDONED OHIO CANAL LANDS IN HANOVER TOWNSHIP, LICKING COUNTY, OHIO.

COLUMBUS, OHIO, September 10, 1920.

HON. JOHN I. MILLER, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—Receipt is acknowledged of your letter of September 9, 1920, transmitting in duplicate copies of resolutions providing for the sale of certain abandoned Ohio canal lands in Hanover township, Licking county, Ohio, to Cecelia F. Wareham.

Upon careful examination, I find the proceedings set out in said resolutions to be legal and correct, and I therefore return said resolutions with my approval endorsed thereon.

Respectfully,
JOHN G. PRICE,
Attorney-General.

1554.

APPROVAL, FINAL RESOLUTIONS FOR ROAD IMPROVEMENTS IN PIKE, LORAIN AND LAWRENCE COUNTIES.

HON. A. R. TAYLOR, *State Highway Commissioner, Columbus, Ohio.*

COLUMBUS, OHIO, September 10, 1920.

1555.

BOARD OF EDUCATION—LIABILITY OF BOARD FOR TUITION OF HIGH SCHOOL PUPIL WHO ATTENDS SCHOOL IN ANOTHER DISTRICT—PUPIL REQUIRED TO ATTEND SCHOOL DURING EACH MONTH—BOARD CANNOT PAY TUITION FOR EIGHT MONTHS AND COMPEL PARENTS TO PAY IN EXCESS OF EIGHT MONTHS.

A board of education sending a high school pupil to another district for school purposes, is liable for all the months during which such school attended is operated, provided the pupil attends such school during each and every month that such high school is operated. The board of education which permits high school pupils to attend another district for high school purposes cannot pay the tuition for eight months and then compel the pupils or parents of the pupil to pay for any excess, above eight months.

COLUMBUS, OHIO, September 10, 1920.

HON. HARRY A. SMITH, *Prosecuting Attorney, Caldwell, Ohio.*

DEAR SIR:—Acknowledgment is made of the receipt of your letter of August 24, 1920, in which you request an opinion of this department upon the following question:

“Where a rural or village school district has no first grade high school

and some of its pupils attend a first grade high school of another district, and said first named district receives state aid for eight months only, is it compulsory on the part of the board of the district in which the pupils live to pay an extra month of tuition where the school they attend runs nine months or would the parents of the pupils have to pay for the excess above eight months?"

Section 7750 G. C. reads in part as follows:

"A board of education not having a high school may enter into an agreement with one or more boards of education maintaining such school for the schooling of all its high school pupils * * *. In case no such agreement is entered into, the school to be attended can be selected by the pupil holding a diploma, if due notice in writing is given to the clerk of the board of education of the name of the school to be attended and the date the attendance is to begin, such notice to be filed not less than five days previous to the beginning of attendance."

In the above section it is noted that the agreement may be made for the "schooling" of high school pupils, and this must be the attendance of the high school pupil for the term in months which obtains in the district attended. It certainly is not the contemplation of the law that a pupil eligible for high school should start in high school and then have his tuition rights curtailed before the end of the term of school in that particular district. That is to say, his tuition is to be paid by the district from which he comes, in full, or else not paid at all by such district. Again, in the latter part of such section the language is that "the school to be attended can be selected by the pupil," and all that the pupil is required to do is to give the name of the school and the day the attendance is *to begin*, no reference being made as to the length of time such student may attend, the inference being that it is for the school year in that particular district selected—that is, the number of months the high school is in operation in that district during that year. This view is further sustained by the language of section 7748 G. C., which reads in part as follows:

"A board of education providing 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 at a second grade high school *for one year*. Should pupils residing in the district prefer not to attend such third grade high school, the board of education of such district shall be required to pay the tuition of such pupils at any first grade high school *for four years*, or at any second grade high school *for three years* and a first grade high school *for one year*. * * * No board of education is required to pay the tuition of any pupil for more than *four school years* * * *."

Thus we find running throughout the section (7748, supra) reference to "years," that is, the school years, and the school year starts on the first day of September of each year and ends on the 31st day of August in the following year, and the year or years occurring in those sections of the statutes referring to high school tuition mean the number of months the high school is conducted in the school district, which high school has been selected by the high school pupil, and the board of education in the school district from which the high school pupil comes is liable for the tuition for the full number of months that the pupil attends in the district selected. The law makes no specification that only eight months' tuition shall be paid by a board of education sending pupils to another district for high school purposes, and

neither does it contemplate that when such school has been selected by the pupil, or the matter arranged by the board of education by contract, the tuition of the pupil should be paid by the district for eight months and then cease. The contemplation of the law is to place before the youth of the state the opportunity for a high school education, which includes graduation, if desired, and if the tuition were paid for but eight months in the year, for instance, in which the pupil was to graduate, then in order to graduate and get a diploma from such high school he would be compelled to pay the extra month's tuition himself, and this is certainly not the contemplation of the statutes, for the general tenor is that a pupil who is eligible for high school, who is willing to attend high school, should have all his tuition paid during such high school attendance by the board of education of the district in which such pupil resides.

Respectfully,
 JOHN G. PRICE,
Attorney-General.

1556.

INHERITANCE TAX LAW—WHAT ALLOWANCE OR DEDUCTION WIDOW ENTITLED TO RECEIVE BY WAY OF VALUE OF HER DOWER WHERE SHE SUCCEEDS TO LAND BY INHERITANCE ON DEATH OF HUSBAND, NO CHILDREN—PROVISION FOR YEAR'S SUPPORT AND HOMESTEAD RIGHT ARE IN SAME CLASS WITH DOWER.

Where a widow or widower inherits as heir of an intestate deceased consort, the value of the dower right of such widow or widower should be subtracted from the whole value of the premises in which it exists for the purpose of determining the value of the taxable succession against which exemptions are to apply. The same rule, save as qualified by section 5332-1 G. C., is to be applied to the right to remain in the homestead and the allowance of a year's support.

COLUMBUS, OHIO, September 10, 1920.

Tax Commission of Ohio, Columbus, Ohio.

GENTLEMEN:—You have requested the opinion of this department on the following question:

“What allowance or deduction is a widow entitled to receive in an inheritance tax proceeding by way of the value of her dower where she succeeds to land by inheritance on the death of her husband, there being no children?”

In a recent opinion of this department the commission has been advised that where there is made in the will of the deceased husband provision for the widow, which is in lieu of dower, the dower interest does not arise at all and the value of the dower interest that might otherwise have arisen is not to be deducted from the value of the estate taken by the wife under the will.

The question which you now raise does not involve the doctrine of election nor the operation of the statutes relating thereto, referred to in the other opinion. Whatever interest the widow acquires in the property of her deceased husband by virtue of his death devolves upon her by operation of law.

In principle, though perhaps not in detail, the dower statute of Ohio follows the common law when it provides that: