

presence of the securities in the state is far from accidental and the decedent's motive in sending them there is disassociated from any such primary motive as was involved in the cases which have been described. In short, the testator deliberately chose an Ohio trustee to administer a trust in respect of his bonds. He delivered the subject of the trust to a trustee in Ohio, thus giving Ohio's courts jurisdiction for the purpose of enforcing the trust and all rights growing out of it.

The conclusion of this department is, therefore, that the succession to the bonds in question is taxable under the inheritance tax law of this state, and that the "B" Trust Company is required to obtain the consent of the commission to the transfer of the certificates evidencing an interest therein.

Respectfully,
 JOHN G. PRICE,
Attorney-General.

1815.

SCHOOLS—COMPULSORY EDUCATION LAW ENFORCIBLE ON PART OF ALL BOYS BETWEEN EIGHT AND FIFTEEN YEARS OF AGE AND GIRLS BETWEEN EIGHT AND SIXTEEN YEARS OF AGE REGARDLESS OF GRADE OR KIND OF SCHOOL—WHEN REGULAR ATTENDANCE AT BUSINESS COLLEGE SATISFIES COMPULSORY EDUCATION LAW.

1. *It is the duty of all officers charged with the enforcement of the compulsory education law to force and compel school attendance on the part of all boys between eight and fifteen years of age, and girls between eight and sixteen years of age, regardless of the grade or kind of school that they should attend or would attend if they properly attend school.*

2. *A child under fifteen years of age, if a boy, and under sixteen years of age, if a girl, who has finished the eighth grade of the public schools or its equivalent, and who is regularly attending a business college, is complying with the compulsory education laws.*

COLUMBUS, OHIO, January 26, 1921.

HON. DAHL B. COOPER, *Judge Common Pleas Court, Division of Domestic Relations, Youngstown, Ohio.*

DEAR SIR:—Acknowledgment is made of the receipt of your request for an opinion upon the following two questions:

1. Do the compulsory education statutes, to-wit, section 7762 and following, require children under sixteen years of age to attend the high school providing that prior to attaining that age they have completed the common school course?

2. If your answer is that a child must attend school until sixteen years of age, would attending business college comply with the requirements?

Bearing upon your first question, attention is invited to an opinion of this department issued about six years ago upon practically the same question, under date of January 6, 1914, being No. 721, and appearing at page 101, Vol. 1, Annual Report of the Attorney-General for 1914, the syllabus of which reads as follows:

"It is the duty of all truant officers to use legal procedure if that is

necessary to force and compel school attendance on the part of all boys and girls who come within the provisions of sections 7770 and 7771 G. C., as amended in 103 O. L. 903, regardless of the grade of school that they should attend or would attend if they properly attended school."

In the body of such opinion the then attorney-general said:

"Such attendance, I take it, on the part of such boys and girls, is required both on the part of those minors who are eligible to or who attend a high school, as well as on the part of those who are in or should attend the elementary grades below the high school grade; in short, attendance is required regardless of the particular grade they are in or that they should attend."

Section 7763, governing school attendance, as amended in 104 O. L., 225, reads as follows:

"Every parent, guardian or other person having charge of any child between the ages of eight and fifteen years of age if a male, and sixteen years of age, if a female, must send such child to a public, private or parochial school, for the full time that the school attended is in session, which shall in no case be for less than twenty-eight weeks. Such attendance must begin within the first week of the school term, unless the child is excused therefrom by the superintendent of the public schools, or by the principal of the private or parochial school, upon satisfactory showing either that the bodily or mental condition of the child does not permit of its attendance at school, or that the child is being instructed at home by a person qualified, in the opinion of such superintendent or clerk, as the case may be, to teach the branches named in the next preceding section."

It will be noted in the above section that it reads:

"between the ages of eight and fifteen years of age"

for boys, and between eight and sixteen years of age for girls. This same discrimination as to the ages of boys and girls at which they may be relieved of the compulsory educational requirements also appears in section 7766, as amended in 104 O. L., p. 129. The opinion of the Attorney-General in 1914, *supra*, was upon the compulsory education laws as they existed at the beginning of that year, and discussion in such opinion, therefore, is upon the amendment made in 103 O. L.

An examination of the compulsory education statutes shows that as far as the question in which you are interested is concerned, there has been nothing placed in the law which would cause a different construction of the compulsory education statutes upon this question than that given by the Attorney-General in 1914.

A reading of the statutes as they exist now indicates that the point which governs is the age of the child rather than its qualifications. It is true that some boys and girls will be well along in high school when thirteen or fourteen years of age, while other children for various reasons might not yet have reached the eighth grade in their sixteenth year. The contemplation of the law appears to be that the child should be in a school of some kind until sixteen years old, if a female, and until fifteen years old, if a male, unless specially excused under other sections of the statutes which provide for special cases.

Bearing upon your second question as to whether attending a business college

would comply with the requirements, section 7762, as amended in 108 O. L., p. 542, reads as follows :

"All parents, guardians and other persons who have care of children, shall instruct them, or cause them to be instructed in reading, spelling, writing, English grammar, geography, arithmetic, United States history, American government and citizenship."

While the above section enumerates the branches in which children shall be instructed, yet the statute does not contemplate that all of these branches must be taken at one and the same time. It is apparent at once that United States history, American government, English grammar and geography would not be taught in the lower grades, that is, when the child begins school, to a degree that they would be taught in these branches in the higher grades. On the other hand, certain of these branches, like arithmetic, and American government and citizenship, might run clear through the curriculum in the elementary schools and the high schools in a given district. Rather does the law contemplate that a child, during its school years, shall be taught in these specific branches in a more or less degree, these branches being the minimum in which instruction must be given, though the law does not prevent instruction in other branches not herein enumerated. It is true that a child might have received instruction in all of these branches mentioned in section 7762 G. C. prior to the fourteenth year of age, because courses of study in the different districts of the state are not uniform nor have they ever been prior to this time. The study of United States history might be taken up in one district in an earlier grade than in another district, and this might be true of other branches. Your question is whether, when a child has finished the eighth grade, before such child has reached the age at which the compulsory education laws, no longer apply, it can then attend a business college and still be within the requirements of section 7763, heretofore quoted. This section says that the parent, guardian, or other person, "must send such child to a public, *private* or parochial school, for the full time that the school attended is in session, which shall in no case be for less than twenty-eight weeks." The law, therefore, takes notice that a child attending a private or parochial school is attending school, as required under the provisions of section 7763 G. C. These private schools might be of different kinds, and no discrimination would lie in favor of one as against another. There might be a military school for boys where the child was being sent in preference to the public school; there might be a non-military boarding school for boys which was given preference over public school. There are in existence also a number of schools for girls, privately conducted, and girls in these schools have been treated as having complied with the compulsory education laws of the state. A business college is a private school, that is, privately conducted, possibly for private gain, although catering to the public in the same manner as the non-public schools heretofore mentioned. A number of these business colleges run practically the entire year in some cases, possibly more weeks than the twenty-eight weeks mentioned in section 7763. To draw a close line between a business college which accepted pupils after they left the eighth grade of the elementary schools and a "private" school which accepted the same kind of pupils, although it bore a different name, would be an injustice to an educational institution, possibly incorporated in regular form, and complying with all of the requirements of section 7763, as regards the number of weeks that a school must operate. It might be an injustice to the pupil himself who is interested in acquiring a business training at an early age, but who lived in a high school district where business training was not taught or at his disposal.

Investigation would likely show that a number of pupils are taken by business

colleges before such pupils are really ready for such business course; that is, they are lacking in the basic education which should be acquired before a business course is taken up. No hard and fast rule could be laid down that would fit each and every case, for very frequently parents will take their children from the public schools when they are ten or twelve years of age and place them in a private school for boys or girls, and if such children attend such private school regularly, the spirit of the compulsory education law has been carried out. That is to say, there has been no tendency to molest parents who send their children to a private school where such child would attend with the regularity that would be expected if the child were in the public school. It is true that the superintendent of public instruction or the public school officials in charge have no record as to the attendance or regularity of attendance of pupils in a business college, but this is also true of those pupils who attend schools which are privately conducted. In the enactment of the compulsory education law the state intended that children up to a certain age should be in school. It would be more vital that they should be in school than the kind or grade of school attended. But while the school officials, including the truant officer and those whose duty it is to enforce the compulsory education law, do not have any record of enrollment and attendance in any private school, the continued absence or non-attendance of a child from a school of any kind would soon be noticeable. An efficient truant officer is one who pays more attention to the pupils not enrolled in any school than one who devotes his activities to checking up an enrollment list furnished by instructors. While there might be more laxity in attendance at a business college than there would be in the public schools, because of a lack of co-operation between business colleges and officials charged with compulsory education, at the same time the law must be construed as it reads, and section 7763 does not establish what kind of a private school the child shall attend in order to comply with the mandate in that section.

In reply to your two questions, it must therefore be held:

1. It is the duty of all officers charged with the enforcement of the compulsory education law to force and compel school attendance on the part of all boys between eight and fifteen years of age, and girls between eight and sixteen years of age, regardless of the grade or kind of school that they should attend or would attend if they properly attend school.

2. A child under fifteen years of age, if a boy, and under sixteen years of age, if a girl, who has finished the eighth grade of the public schools or its equivalent, and who is regularly attending a business college, is complying with the compulsory education laws.

Respectfully,

JOHN G. PRICE,

Attorney-General.