"In Matter of McKelway, 221 N. Y. 15, it was held that even when the joint account was created prior to the adoption of the statute, the transfer by survivorship was taxable to the extent of one-half the joint property. When the joint account is created *subsequent* to the adoption of the statute, the privilege of acquiring the entire property by the right of succession may be subjected to the tax on the method of acquisition. (Matter of Vanderbilt, 172 N. Y. 69, 73; Matter of Keeney, 194 N. Y. 281; 222 U. S. 525.) The right to take property by survivorship is the creation of law upon which the State may impose conditions (Matter of Dows, 167 N. Y. 227; Matter of White, 208 N. Y. 64, 67), if no vested or contract rights are thereby violated."

It does not appear that any of the property in question here was placed into the joint account after June 5, 1919. Therefore the principles of the McKelway case apply if the Ohio statute is to receive the same interpretation as the New York statute. It is believed that such interpretation must be given to the Ohio statute.

As stated in the opinions referred to, this part of the Ohio statute could have been passed for no other purpose than to cover interests or estates existing under the laws of other states, for Ohio does not recognize any joint tenancy. The case is therefore distinguishable from the one considered in Opinions of the Attorney General for the year 1920, Vol. 1, page 473, which concerned Ohio property. The New York decisions are therefore controlling. The Ohio statute expressly provides that the accrual of the right by the death of the one joint tenant is to be deemed a taxable succession in the conventional sense, the saving clause of the act being section 4 thereof, providing that the act itself shall not affect successions taking place prior to its accrual, but that all successions occurring subsequent thereto shall be affected by and taxable under it, except in certain cases which do not apply here. Inasmuch as it is the death of the joint tenant and not the creation of the joint estate in contemplation of death that is made a taxable succession, it is clear that the case is within the express terms of the statute.

For the foregoing reasons, it is the opinion of this department that to the extent of half the value only of the property held in the joint account and upon the assumptions of fact above made, the interest of E. B. S. therein arising at the death of C. A. S. is taxable in Ohio so far as stocks in Ohio corporations are concerned.

Respectfully,
JOHN G. PRICE,
Attorney-General.

3794.

APPROVAL, FINAL RESOLUTIONS, ROAD IMPROVEMENT, I. C. H. NO. 23, LICKING-KNOX COUNTY.

COLUMBUS, OHIO, December 14, 1922.

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