

"It is the opinion of this department that section 5348-2 applies to the transfer of registered bonds and their registration in the name of the transferee in case of the accrual of the inheritance tax on account thereof, \* \* \*."

It was also held in an opinion of this department found in Volume I, page 277, Opinions of the Attorney General, 1921, that:

"A national bank is liable to the same extent and under the same circumstances that a corporation organized under the laws of Ohio would be for failing to comply with section 5348-2 of the General Code."

I find nothing in the legislation pertaining to Joint Stock Land Banks in conflict with these opinions.

It is therefore the opinion of this department that your second question also should be answered in the affirmative.

Respectfully,  
C. C. CRABBE,  
*Attorney-General.*

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910.

APPROVAL, BONDS OF WHETSTONE TOWNSHIP RURAL SCHOOL DISTRICT, CRAWFORD COUNTY, \$6,121.25, TO FUND CERTAIN INDEBTEDNESS.

COLUMBUS, OHIO, November 19, 1923

*Department of Industrial Relations, Industrial Commission of Ohio, Columbus, Ohio.*

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911.

BOARD OF EDUCATION—HAS AUTHORITY UNDER SECTION 7777 G. C. TO FURNISH CARE AND PERSONAL NECESSITIES FOR INVALID MOTHER TO ENABLE CHILD TO ATTEND SCHOOL—SECTIONS 4752 AND 7705 G. C. CONSTRUED.

**SYLLABUS:**

1. *Under the provisions of section 7777 General Code, where the mother is an invalid, the family without property and no means of support other than the earnings of the father and husband, which earnings are inadequate to support the family and provide the proper care for the invalid mother, and when because of the above circumstances the services of a child (a daughter) are absolutely required to care for the mother, it is believed upon satisfactory proof of such state*

*of facts the board of education, in cooperation with the health commissioner of the district, would have authority to furnish, in addition to such maintenance, care and personal necessities as the husband and father may be able to provide, additional care and personal necessities for the invalid mother as may be necessary to enable the child to attend school, and if proven necessary it is believed such care may include the services of an attendant for the invalid mother.*

2. Sections 4752 and 7705 G. C. provide the formalities and action necessary on the part of the board of education for the employment of teachers and insure full opportunity for a clear understanding of the contract of employment and it is believed when such employment is fully consummated and a teacher is employed to teach in a certain specific school, this arrangement and employment must stand.

COLUMBUS, OHIO, November 20, 1923.

HON. G. A. MCGONAGLE, *Prosecuting Attorney, McConnelsville, Ohio.*

DEAR SIR:—Yours of recent date received, in which you submit the following statement and inquiry:

“W owns no property. He has three children of school age, one girl 16 years of age and two younger. He must support his family by daily labor. The wife of W and the mother of his children has been an invalid confined to her bed for four years and requiring that some one be with her regularly. During vacation this older girl cares for her and does the house work while W is at work. During the school year W has been staying with his wife while the girl is in school. In so doing his earnings cease. Under section 7777 G. C. may the board of education furnish and pay a nurse or attendant for this woman, or pay to W if he stays at home and cares for her, such sum of money as will enable him to cease working, stay with his wife and keep the girl in school. Does ‘such other personal necessities for the child or person entitled to his services’ in any way limit the board or does it require such expenditure as will keep the family as in this case, should the father cease to work and earn means, in order to care for his wife? Or must the board furnish the living for this family while the girl attends school and W cares for the wife, or furnish an attendant while he earns the living.

“May the board of education, after hiring teachers for a rural township district, transfer teachers and require them to teach in another school of the same grade in the district, than the school for which they were originally employed?”

In giving consideration to your first inquiry, attention is first directed to a former opinion of this department, found in the opinions of the Attorney General for 1914, page 1536, the syllabus of which is as follows:

“It is the duty of the board of education to provide for relief out of its contingent fund for any boy under fifteen years of age and any girl under sixteen years of age, who is unable to attend school because *absolutely required* to work at home or elsewhere in order to support himself or herself or help to support or care for others who are unable to support or care for themselves, upon the report of the truant officer that he is satisfied of such necessity.”

Section 7777 General Code, the section to which you make reference in your inquiry, at the date of the above opinion read as follows:

"When a truant officer is satisfied that a child, compelled to attend school by the provisions of this chapter, is unable to do so because absolutely required to work at home or elsewhere in order to support itself or help to support or care for others legally entitled to its services who are unable to support or care for themselves, such officers must report the case to the president of the board of education. Thereupon he shall furnish text books free of charge, and such other relief as may be necessary to enable the child to attend school for the time each year required by law. The expenses incident to furnishing books and relief must be paid from the contingent funds of the school district. Such child shall not be considered or declared a pauper by reason of the acceptance of the relief herein provided for. If the child, or its parents or guardian, refuses or neglects to take advantage of the provisions thus made for its instruction, it may be committed to a children's home or a juvenile reformatory, as provided for in the next "three preceding sections."

The above referred to opinion seems to leave little doubt as to the power and duty of a board of education "to provide relief". Since the above opinion was issued, section 7777 G. C. has been materially changed and now reads as follows:

"When an attendance officer is satisfied that a child compelled to attend school is otherwise unable to do so because *absolutely required* to work at home or elsewhere in order to support himself or help to support or care for others legally entitled to his services who are unable to support or care for themselves, such officer must report the case to the president of the board of education of the city, exempted village, village or rural school district in which such child resides. Upon proof of such fact the given board of education *shall furnish free of charge text books and such other personal necessities* for the child or *persons entitled to his services* and also *such medical care* in cooperation with the health commissioner of the district as may be necessary to enable the child to attend school. The expense incident to furnishing such relief must be paid from the contingent fund of the school district. Such child shall not be considered a pauper by reason of the acceptance of such relief. If the child or its parent or guardian refuses or neglects to take advantage of the provision thus made for its instruction, action may be taken against the parent or guardian or child as provided in sections 7773, 7774 or 1645, General Code."

It appears that the purpose of this section is to assure to every child of school age of this state ample opportunity to avail itself of all the advantages of the public schools, notwithstanding the misfortunes and handicaps of his home life.

The language "shall furnish such other personal necessities for the child or persons entitled to his services and also such medical care \* \* \* as may be necessary to enable the child to attend school" would seem to furnish ample power and authority to the board of education to furnish such care and personal necessities for the mother as may be necessary to enable the child to attend school.

From the statement you submit, it appears the mother is an invalid, the family without property and the services of the child (a daughter) *absolutely required* to care for the mother.

Upon satisfactory proof of this state of facts, it is believed under section 7777 General Code, the board of education, in cooperation with the health commissioner of the district, would have authority to furnish such care and personal necessities for the invalid mother as may be necessary to enable the child to attend school, and, if proven necessary, it is believed such care may include the services of an attendant for the invalid mother. However, it is not believed that section 7777, General Code, would be authority for the plan you suggest of having the husband and father cease his regular employment and devote his time to the care of the invalid mother and for the board of education to furnish to such family an income sufficient to maintain them and keep the children in school. It is first the duty of the husband and father to maintain the family from his earnings, this to be supplemented by such care and personal necessities as may be necessary to enable the child to attend school.

In answer to your second question relative to the transfer of a teacher, your attention is directed to the first part of section 4752 General Code, as follows:

"A majority of the members of a board of education shall constitute a quorum for the transaction of business. Upon a motion to adopt a resolution authorizing the purchase or sale of real or personal property or to employ a superintendent or teacher, janitor or other employe or to elect or appoint an officer or to pay any debt or claim or to adopt any text book, the clerk of the board shall publicly call the roll of the members composing the board and enter on the records the names of those voting 'aye' and the names of those voting 'no'. If a majority of all of the members of the board vote aye, the president shall declare the motion carried."

This section outlines the details and formal action which must be taken by a board of education in the employment of a teacher and seems to afford full opportunity for a clear understanding as to the terms of the employment.

Section 7705 General Code, provides as follows:

"The board of education of each village and rural school district shall employ the teachers of the public schools of the district, for a term not longer than three school years, to begin within four months of the date of appointment. The local board shall employ no teacher for any school unless such teacher is nominated therefor by the county or assistant county superintendent except by a majority vote of its full membership. In all high schools and consolidated schools one of the teachers shall be designated by the board as principal and shall be the administrative head of such school."

The language "the local board shall employ no teacher for any school unless such teacher is nominated therefor by the county or assistant county superintendent except by a majority vote of its full membership" might be construed to indicate an intention that teachers be employed for specific schools. A teacher accepting employment of a school near the place of her residence might be materially influenced with reference to her salary by such an arrangement.

In view of the provisions of the above quoted sections, which surround the employment of teachers with sufficient formalities to insure full opportunity for a

clear understanding of the contract of employment, it is believed when such employment is fully consummated, as indicated in your statement, and the teacher is clearly employed to teach in a certain specific school, this arrangement and employment must stand.

Respectfully,  
C. C. CRABBE,  
*Attorney-General.*

912.

TAXATION—TAX LEVY PROVIDED FOR IN SECTION 5655-3 G. C. IS WITHIN THREE MILL LIMITATION PROVIDED BY SECTION 5649-3A G. C.

SYLLABUS:

*The tax levy provided for in section 5655-3 G. C. as found in 110 O. L., p. 324, is within the three mill limitation provided by section 5649-3a G. C.*

COLUMBUS, OHIO, November 20, 1923.

HON. A. F. ALLYN, *Prosecuting Attorney, Port Clinton, Ohio.*

DEAR SIR:—I am in receipt of your recent communication in which you ask the following questions:

“Is a tax levy under section 5655-3 G. C., as amended by the last legislature, found in 110 O. L., p. 324, within the three mill limitation as provided in section 5649-3a of the General Code, or within the fifteen mill limitation, or outside of all tax limitations?”

If such tax levy must be within the limitations mentioned above, and such limitations have already been reached, how are such bonds to be issued?”

The sections which are pertinent to your inquiry are 5655-1, 5655-2 and 5655-3, found in 110 O. L., p. 325, and provide as follows:

Section 5655-1:

“On or before July 15, 1923, each board of education in the state of Ohio shall submit to the auditor of state a statement of all outstanding indebtedness of the school district on July 1, 1923, in detail, with the amounts, and maturities thereof, the rate of interest thereon, if any, the authority under which incurred, the tax duplicate of the district, and all balances in the sinking fund or otherwise applicable to the payment thereof. Such statement shall be in such form and accompanied by such information as the auditor of state may prescribe, and the auditor of state shall have full power to make an audit of the books of any school district to