

Therefore, in specific answer to your first question I am of the opinion that, a veteran may receive aid from the Soldiers' Relief Commission although receiving a pension or compensation from the Federal Government, and such pension or compensation is insufficient to meet his budgetary needs as determined by the Soldiers' Relief Committee.

In answer to your second question it is my opinion that there is no age limit for aid to be provided by the Soldiers' Relief Commission to minor children of the veteran.

Respectfully,

THOMAS J. HERBERT,
Attorney General.

1090.

CONTRACT—STATE WITH VILLAGE OF GIBSONBURG,
IMPROVEMENT, GIBSONBURG, STATE HIGHWAY No.
931, SANDUSKY COUNTY.

COLUMBUS, OHIO, August 24, 1939.

HON. ROBERT S. BEIGHTLER, *Director of Highways, Columbus, Ohio.*

DEAR SIR: You have submitted for my consideration a cooperative contract between the Director of Highways and the Village of Gibsonburg covering the following proposed improvement:

“Section, Gibsonburg (Part) State Highway No. 931, Sandusky County, Village of Gibsonburg.”

Finding said contract correct as to form and legality, I have accordingly endorsed my approval thereon and return the same herewith.

Very truly yours,

THOMAS J. HERBERT,
Attorney General.

1091.

STATE FIRE MARSHAL—NO AUTHORITY TO CAUSE BUILDING TO BE TORN DOWN FOR MATERIALS—NO AUTHORITY TO SELL MATERIALS IN BUILDING TO PAY FOR SUCH COST—SECTION 836-2, G. C.

SYLLABUS:

The State Fire Marshal has neither (1) the authority to cause a building to be torn down for the materials in the building, nor (2) authority

to sell said materials in said building to pay for the cost of tearing down same.

COLUMBUS, OHIO, August 25, 1939.

HON. RAY R. GILL, *State Fire Marshal, Columbus, Ohio.*

DEAR SIR: This will acknowledge receipt of your request for my opinion which reads as follows:

“Will you please give us an opinion as to whether the State Fire Marshal under Section 836-2 or any other section, can cause a building to be torn down or removed for the materials in the building.

Further, can the State Fire Marshal sell said materials in said building or structure, and from the sale of such pay for the cost of tearing down said building.”

Section 836-2 of the General Code, which is pertinent to your inquiry, reads as follows:

“If any person fail to comply with an order of an officer under the last three preceding sections and within the time fixed, then such officer is empowered and authorized to cause such building or premises to be repaired, torn down, demolished, materials removed and all dangerous conditions remedied, as the case may be and *at the expense of such person*, and if such person within thirty days thereafter fail, neglect or refuse to repay said officer the expense thereby incurred by him, such officer shall certify said expenses, together with twenty-five per centum penalty thereon to the county auditor of the county in which said property is situate and said county auditor shall enter said expense on the tax duplicate of said county as a special charge against the real estate on which said building is or was situate and the same shall be collected as other taxes and when collected, shall together with the penalty thereon be refunded to such officer.”

(Italics the writer's.)

The powers of public officials are limited and it is a familiar rule of law that public officers have only such powers as are expressly given them and those necessarily implied to carry out the express powers. In *Frisbie Company vs. City of East Cleveland*, 90 O. S., 266, the first branch of the syllabus reads as follows:

“Where a statute prescribes the mode of exercise of the power therein conferred upon a municipal body, the mode speci-

fied is likewise the measure of the power granted, and a contract made in disregard to the express requirements of such statute is not binding or obligatory upon the municipality.”

Of like holding is the case of *Anderson vs. P. W. Madsen Investment Company*, 72 Fed., 2nd, 768. The third branch of the headnotes of said case reads as follows:

“Where a statute limits a thing to be done in a particular manner, it includes negative of any other mode.”

It is also a well settled rule of statutory construction that where a statute prescribes the mode of exercising the powers therein conferred, this mode must be followed. In fact where the statute prescribes a mode by which such power shall be exercised, the mode is considered as a part of the power granted. (See 32 O. J., 923, et seq., Public Officers, Secs. 74 and 75.)

In Section 836-2, supra, the statute, specifically sets out that the building is to be torn down, etc., at the expense of the owner. The statute also gives a further remedy, if the owner fails to pay, of certifying said expense together with a twenty-five per cent penalty to the county auditor of the county in which said property is located, to be put on the tax duplicate as a special charge against the real estate. An application, therefore, of the doctrine *expressio unius est exclusio alterius* impels a negative answer to your inquiry.

The materials from the building after it is torn down still belong to the property owner, and may be disposed of by him as he sees fit. Since Section 836-2, supra, specifically states who should pay the costs of tearing down a building, also prescribing a means of collecting same, the statute must be followed.

Therefore in specific answer to your inquiry, I am of the opinion that the State Fire Marshal has neither (1) the authority to cause a building to be torn down for the materials in the building, nor (2) authority to sell said materials in said building to pay for the cost of tearing down same.

Respectfully,

THOMAS J. HERBERT,
Attorney General.