

free transportation and free tuition to elementary school pupils living in one school district adjacent to the West Unity district. I understand that all foreign pupils from all other districts will be expected to pay tuition.

I would like to know if the West Unity school district can legally admit to its elementary school foreign pupils without requiring the payment of tuition, and if these pupils can be furnished free transportation."

The powers of a board of education are fixed by statutory provisions and limited to the powers so fixed. Courts have consistently held that statutory boards have such powers only as are expressly extended to them by statute, together with such incidental powers as are necessary to carry to fruition the express powers so granted. This principle was specifically applied to boards of education by the Supreme Court in the case of *State ex rel Clarke vs. Cook, Auditor*, 103 O. S. 465. See also *Schwung vs. McClure*, 120 O. S. 335, 166 N. E. 230.

There is no authority for a board of education to extend to non-resident pupils the advantages of the schools of the district for which it functions, free of charge. On the other hand it is provided by Section 7681, General Code, that the schools of each district shall be free to all youth between six and twenty-one years of age, who are children, wards or apprentices of actual residents of the district, and it is provided by Section 7682, General Code, that, "each board of education may admit other persons on such terms or upon the payment of such tuition within the limits of other sections of law as it prescribes."

It is the clear policy of the law, and properly so, that the taxpayers of a school district should not be burdened with the cost of providing an education for non-resident pupils, and that the revenues of a school district should be expended only to provide school advantages for the children, wards or apprentices of actual residents of the district. If the school advantages of the district are extended to others, the reasonable cost thereof must be paid either by the pupils, their parents or guardians, or by the taxpayers of the school district where they or their parents or guardians reside.

I am therefore of the opinion, in specific answer to your question, that the West Unity school district cannot legally admit to its elementary schools, free of tuition, pupils who are not children, wards or apprentices of actual residents of the district; nor can such children be lawfully furnished transportation free of charge.

Respectfully,

GILBERT BETTMAN,
Attorney General.

885.

APPROVAL, BONDS OF CITY OF CAMPBELL, MAHONING COUNTY—
\$95,499.61.

COLUMBUS, OHIO, September 18, 1929.

Industrial Commission of Ohio, Columbus, Ohio.