

property in question has been depreciated by reason of consequential damages thereto arising from some act or acts extraneous to such property.

The appropriation of a strip of land for railroad right of way purposes out of the farm might cut up the farm in such a way as to make the rest of the land less valuable. This is a matter for pertinent consideration in an action to assess compensation and damages on account of the land so taken. Aside from this, the mere proximity of a railroad in operation might, in some cases, make the land of a taxpayer contiguous thereto less valuable, as would the proximity of manufacturing establishments of some kinds. Many other extraneous reasons might exist why real property in a particular locality might suffer depreciation in value. None of these things would justify an application for deduction under the provisions of the section of the General Code here under consideration.

If the taxpayer referred to in your communication has just cause for complaint as to the assessed valuation of the property here in question, he has an adequate remedy under the provisions of Sections 5609, et seq., General Code, Section 5609, General Code, provides that complaint against any valuation or assessment as the same appears upon the tax duplicate for the current year may be filed with the county board of revision on or before the day limited for the payment of taxes for the first half year, and that any taxpayer may file such complaint as to the valuation or assessments of his own or another's property. Under the provisions of Section 5610, General Code, an appeal may be taken to the Tax Commission of Ohio from the decision of the county board of revision on such complaint. Likewise, under the provisions of Sections 5611-1 and 5611-2, General Code, proceedings in error may be instituted in the Common Pleas Court to the order and finding of the Tax Commission in such matters.

These statutory provisions afford to the taxpayer referred to in your communication full and adequate remedy for any just complaint that he may have with respect to the valuation of the property in question.

By way of specific answer to the question presented in your communication, I am of the opinion that the facts therein stated do not authorize the county auditor to make any deduction in the assessed valuation of the property therein referred to under the provisions of Section 2591, General Code.

Respectfully,

GILBERT BETTMAN,

*Attorney General.*

---

1670.

APPROVAL, FINAL RESOLUTION FOR GRADE CROSSING IN LICKING COUNTY—CO-OPERATIVE CONTRACT FOR APPROACH TO BRIDGE IN WILLIAMS COUNTY.

COLUMBUS, OHIO, March 25, 1930.

HON. ROBERT N. WAID, *Director of Highways, Columbus, Ohio.*

DEAR SIR:—You have submitted for my approval a final resolution relating to the appropriation of additional funds for grade-crossings of Licking County, Section "B", SH No. 359; also co-operative contract with reference to an approach to a bridge on Section "H", SH No. 303, Williams County.

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

Respectfully,

GILBERT BETTMAN,  
*Attorney General.*

1671.

TRANSPORTATION OF ELEMENTARY PUPILS LIVING MORE THAN TWO MILES FROM SCHOOL, DISCRETIONARY—ALL PUPILS WITHIN SAME CLASSIFICATION ENTITLED TO EQUAL TRANSPORTATION FACILITIES—SPECIFIC EXAMPLES.

SYLLABUS:

1. *It is within the discretionary powers of a board of education to furnish transportation for school pupils who reside less than two miles from the school building in which they attend school.*

2. *A board of education, although vested with discretionary powers with reference to transporting pupils within the two mile limit, is not permitted to abuse that discretion by exercising undue and arbitrary discrimination in providing such transportation.*

3. *When a board of education, by resolution, formally classifies pupils who reside less than two miles from the school building where they attend school, basing such classification on real and substantial differences either with reference to the age of the pupils or the distance they live from the school, or otherwise, and formally resolves to transport the pupils within a certain class, it is the board's duty to provide substantially the same transportation facilities for all the pupils in each class.*

4. *The board of education of a school district may lawfully provide transportation for pupils who attend the first, second and third grades of school, regardless of the distance they reside from the school building where they attend school, even though transportation is not furnished for pupils who live less than two miles from school and who attend the higher grades.*

COLUMBUS, OHIO, March 25, 1930.

HON. G. H. BIRRELL, *Prosecuting Attorney, Warren, Ohio.*

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

“Section 7731 of the General Code provides that all elementary pupils living more than two miles from the school building must be transported; and according to an opinion of the Attorney General in 1927 (Vol. IV, page 2489), this distance should be computed by measurement from the nearest door of the school building, along the highway, ‘to a point opposite the entrance to the curtilage of the residence of the pupil, (or the path or traveled way leading to the entrance of such curtilage as the case may be) thence to the entrance of the curtilage, along the path or traveled way to said entrance if the curtilage of the residence of the pupil does not extend to the highway.’