

person in charge of such child would be justified in transporting the child, if the board failed to provide the transportation, and recovery could be had against the board for the reasonable value of the transportation so furnished by the parent or person in charge of the child.

Under such circumstances a quasi-contractual obligation arises in favor of the person furnishing the transportation and against the school board upon which the obligation rested to furnish the transportation which quasi-contractual obligation must be recognized.

A very similar situation was passed upon by the Supreme Court in the case of *Sommers v. Board of Education*, 113 O. S., 177. At that time school boards were required by statute to furnish high school facilities within four miles of their homes or provide transportation to a high school or board and lodging near a high school. A certain school board had failed in this respect, the parent furnished the transportation and sued the board for the reasonable value thereof. The court said, on page 183 of the last-mentioned volume:

"The parent has discharged the obligation first of the local school board and next of the county school board. Moreover, this duty was imposed upon the board partly for the parent's benefit, as well as for the benefit of the children and of the public. As the performance of that duty by another is a benefit to the school boards, when he performed the duty the parent conferred a benefit upon the school boards. For this benefit the school boards ought in justice to pay, and hence the intervenor, that is, the parent who performed the duty, is entitled to compensation therefor."

When the parent or person in charge of such a child furnishes the transportation the provisions of section 7731-3, General Code, need not in my opinion, be complied with. I am also of the opinion that the terms of section 7731-3, General Code, are not applicable where the transportation of crippled children as provided by Section 7755-3, General Code, is involved unless those children are conveyed in the regular motor van or school wagon provided by the board for the transportation of school children generally.

Respectfully,

GILBERT BETTMAN,
Attorney General.

3173.

APPROVAL, BONDS OF VILLAGE OF MACEDONIA, SUMMIT COUNTY,
OHIO—\$18,000.00.

COLUMBUS, OHIO, April 22, 1931.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.

3174.

APPROVAL, ABSTRACT OF TITLE TO LAND OF WILLIAM J. O'BRIEN
AND ELLA CROWE IN UNION TOWNSHIP, SCIOTO COUNTY, OHIO.

COLUMBUS, OHIO, April 23, 1931.

HON. CARL E. STEEB, *Secretary, Ohio Agricultural Experiment Station, Columbus, Ohio.*

DEAR SIR:—I am in receipt of your letter submitting for my examination and approval an abstract of title, copy of real estate option, authority of controlling board, encumbrance estimate No. 810, and deeds to the state of Ohio, covering the proposed purchase of approximately 300 acres of land situated in survey No. 15757, Union Township, Scioto County, Ohio, from William J. O'Brien and Ella Crowe.

An examination of the abstract of title submitted, which is certified by the abstractor under the date of January 26, 1931, indicates that William J. O'Brien and Ella Crowe, his sister, have a good and marketable fee simple title to said land, that they own, respectively, a six-tenths undivided interest and a four-tenths undivided interest therein, and that the land is free and clear of all encumbrances, with the exception of the taxes for 1930 and 1931.

In one of the instruments in the chain of title, being a deed from Robert Cooper and Rosa Cooper, his wife, to John W. O'Brien, dated November 13, 1896 (Item No. 10, Abstract), the notary public who took the acknowledgment failed to sign his name. This deficiency is rectified by a quit claim deed from Robert and Rosa Cooper to the state of Ohio.

Encumbrance estimate No. 810 indicates that there remains in the proper appropriation account a sufficient balance to pay the purchase price of this land. I call your attention, however, to the fact that the encumbrance record bears only the names of William J. O'Brien and Margaret E. O'Brien, his wife. Inasmuch as Ella Crowe is the owner of an interest in this land, I suggest that the encumbrance record be corrected so as to include the name of Ella Crowe.

The warranty deed executed by William J. O'Brien, and Margaret E. O'Brien, his wife, and by Ella Crowe and Frank R. Crowe, her husband, is properly executed with the release of the dower interests, and conveys a fee simple title to the state of Ohio.

I am herewith returning to you all of the papers enumerated above as having been received.

Respectfully,
GILBERT BETTMAN,
Attorney General.

3175.

GOVERNOR—POWER TO SUMMON MILITIA TO EXECUTE THE LAWS
IN CONNECTION WITH NATIONAL AIR RACES AT CLEVELAND,
OHIO, DISCUSSED.

SYLLABUS:

Whether the militia shall be summoned in order to execute the laws in connection with the National Air Races at Cleveland is within the discretion of the governor.

COLUMBUS, OHIO, April 23, 1931.

HON. FRANK D. HENDERSON, *Adjutant General of Ohio, Columbus, Ohio.*

DEAR SIR:—Recently I was asked the following inquiry by your predecessor:

"I should like to be informed if it is possible for the state to declare the Cleveland Airport and the surrounding territory a military district during the time the National Air Races might be held.