

It is well settled that in the construction of a statute each section thereof must be construed in connection with the whole act of which it is a part, and a construction which gives effect to every section and clause must be favored. *Medical College vs. Ziegler, et al.*, 17 O. S. 52; *State vs. Rouch*, 47 O. S. 478; *State vs. Van Gunter*, 84 O. S. 172. If the legislature had intended that its reference to section 3476, General Code, in defining poor relief, should be broad enough to include the upkeep of a county institution, then it would have been unnecessary expressly to include in the definition of poor relief for which the proceeds of bonds issued under section 7 of the act can be expended "Maintenance of a county home and the children's home;" and the inclusion of this clause in the definition of poor relief as used in section 7 and its exclusion in the definition of poor relief as used in section 2, would be meaningless. When the legislature expressly provided for the use of the proceeds of bonds issued under section 7 for this purpose and made no express provision therefor in the definition of poor relief for which the proceeds of bonds issued under section 3 may be used, it clearly intended that the proceeds of such bonds could not be used for the maintenance of a county home or a children's home.

Likewise, while the legislature expressly provided that the proceeds of bonds issued under section 7 may be used for the payment of mothers' pensions and for affording soldiers' relief as provided in sections 2930 to 2941, inclusive, General Code, there is no authority in the act for the use of the proceeds of bonds issued under section 3 of the act for either of such purposes.

I am of the opinion therefore that the proceeds of bonds issued under section 3 of Amended Senate Bill No. 4 of the first special session of the 89th General Assembly, as amended by Senate Bill No. 2 of the second special session of the 89th General Assembly and by Senate Bill No. 63 of the 90th General Assembly and by House Bill No. 7 of the second special session of the 90th General Assembly, may not be expended by county commissioners for the maintenance of the county home or the county children's home, or for soldiers' relief or the payment of mothers' pensions, but the proceeds of bonds issued under section 7 of said Amended Senate Bill No. 4, as amended by said Senate Bill No. 63 and by House Bill No. 7 of the first special session of the 90th General Assembly, may, with the approval of the state relief commission, be used for all of said purposes.

Respectfully,

JOHN W. BRICKER,
Attorney General.

2319.

TOWNSHIP TRUSTEES—MAY PROVIDE REASONABLE FEE FOR
VOLUNTEER FIREMEN ATTENDING PRACTICE MEETINGS OF
VOLUNTEER FIRE COMPANY.

SYLLABUS:

1. *Under the provisions of Section 3298-54, General Code, the township trustees of a township may legally provide for a reasonable fee to be paid volunteer*

firemen of the township who attended practice meetings of a volunteer fire company, for their time consumed at such meetings.

2. *Opinions of the Attorney General for 1929, Vol. II, page 893, approved and followed.*

COLUMBUS, OHIO, February 26, 1934.

HON. JOHN M. HARDING, *Prosecuting Attorney, Elyria, Ohio.*

DEAR SIR:—I am in receipt of your letter of recent date which is as follows:

“The buildings that are on the tax duplicate in the Township of Ridgeville, this county, including several large greenhouses, have an aggregate tax value of \$1,694,830.00; while the value of the buildings therein, which are exempt from taxation have an aggregate value of \$310,150.00. This makes an aggregate building value in the township of \$1,984,980.00.

For several years past the township has owned its fire fighting equipment and there has been therein an active volunteer fire company consisting of nineteen (19) men, having their own organization consisting of the Chief, Assistant Chief, other officers and members. The Township Trustees pay each member a fixed and reasonable sum for his services at each fire. In the last two and one-half years this volunteer company has fought fifty-one (51) fires and answered nine (9) false alarms. The officers and members of the volunteer company have been meeting once each week and those attending such meetings enter into active and earnest practice as fire fighters. In these practice meetings the members of the company practice in various capacities to the end that practically each man is trained to take his place in any of the classes of work necessary for practical fire fighting.

Rather than make this letter unnecessarily long, and yet with a view of putting the situation more fully before you, I enclose herewith a copy of detailed statement of facts furnished this office by the clerk of said township at the instance of the trustees thereof.

The trustees are unanimous in their opinion that each firemen so attending and taking part in such practice meetings should be paid a fair and reasonable stipend for the time so spent and they have, therefore, asked this office for an opinion as to whether or not they may legally make such reasonable payments for such actual services with public funds. Being unable to find any opinion from your office or any decision of court or any provision of law directly answering this question, I am respectfully asking you for your opinion upon this question.”

Section 3298-54, General Code, provides as follows:

“Township trustees may establish all necessary regulations to guard against the occurrence of fires, protect the property and lives of the citizens against damages and accidents resulting therefrom, and, when a volunteer fire company has been organized for service in the township, of such character as to give assurance of per-

manency and efficiency, may purchase and provide, for the use of such company, such fire apparatus and appliances as may seem to the trustees advisable, in which event they shall provide for the care and maintenance thereof, and, for such purpose, may purchase, lease or construct and maintain necessary buildings; and they may establish and maintain lines of fire alarm telegraph within the limits of the township."

In construing this section, my immediate predecessor held as disclosed by the syllabus of an opinion reported in Opinions of the Attorney General for 1929, Vol. II, p. 893:

"Under the provisions of section 3298-54, General Code, the trustees of a township may legally pay to each volunteer fireman the sum of one dollar for attending a fire call."

In the opinion, it is stated at pages 893 and 894:

"Section 3298-54, which you quote in your communication, clearly authorizes the establishment of a volunteer fire company for service in a township and further authorizes the township trustees, when such a company is established, to furnish fire apparatus and appliances as may to the trustees seem advisable. The section does not expressly authorize the payment of compensation to members of the fire department for services in such connection. However, the section does authorize the trustees 'to establish all necessary regulations to guard against the occurrence of fires.' While, of course, it is somewhat inconsistent to make payment to one who is a volunteer, yet it would seem that the power is vested in the trustees to perform the major duties to provide against fire and a *mere nominal fee* to be paid to a volunteer would not necessarily destroy the character of the service. * * Inasmuch as a small compensation may, to some extent, aid in maintaining such an organization, it is believed the same comes within the power of the trustees in establishing necessary rules and regulations to protect the citizens of the township against fire."

Article X, Section 2 of the Ohio Constitution provides in part:

"* * No money shall be drawn from any township treasury except by authority of law."

From the reasoning of the 1929 opinion, it would seem that the phrase in Section 3298-54, General Code, authorizing the township trustees "to establish all necessary regulations against the occurrence of fires," is sufficient "authority of law" within the meaning of Article X, Section 2, Ohio Constitution, to permit the said trustees to pay each volunteer fireman attending a practice meeting a reasonable amount of money for the time consumed in such practice. It can hardly be challenged that it is not a reasonable and necessary regulation against the occurrence of fires, that the township trustees provide for practice meetings of the volunteer firemen, as proper discipline and proficiency of the firemen could scarcely be otherwise obtained. If no practice meetings were to be held, it is con-

ceivable that such confusion would result at a fire as to cost the township great loss of property and human life.

I am, therefore, of the opinion that the power granted the trustees by Section 3298-54, General Code, "to establish all necessary regulations against the occurrence of fires" includes the authority for the trustees to make a reasonable fee as compensation for the attendance of the volunteer firemen at practice meetings of the township volunteer fire department.

Of course, it is a well established rule of law that the discretion of a public board must not be abused. What constitutes abuse of discretion is largely a question of fact arising from the circumstances of each particular case. Hence, I am not passing on the exact amount of money that the trustees may allow each volunteer fireman for a practice meeting and the number of practice meetings to be held in each year. These matters are within the discretion of the township trustees and so long as such discretion is not abused the courts will not be disposed to set aside the action of the said trustees.

Respectfully,

JOHN W. BRICKER,

Attorney General.

2320.

BANKS—BOARDS OF EDUCATION AND TOWNSHIP TRUSTEES UN-AUTHORIZED TO COMPROMISE CLAIMS WITH CLOSED DEPOSITORY BANKS AND WITH SURETIES ON DEFAULTED DEPOSITORY BONDS WHEN.

SYLLABUS:

1. *Where a surety bond constitutes the security for the deposit of public funds, boards of education and boards of township trustees may not, on behalf of school districts or townships, consent to the resumption of business by a closed depository bank under a plan whereby the public depositors are to relinquish a portion of the deposit liability and accept in lieu thereof participation certificates issued against certain segregated assets.*

2. *Such boards do not have the power to compromise claims due their respective subdivisions similar to that granted to boards of county commissioners by Section 2416, General Code, and cannot effect a compromise with sureties on a defaulted depository bond after bringing action against such sureties or otherwise. Opinions of the Attorney General for 1933, No. 1890, approved and followed.*

3. *By virtue of the powers of local self-government conferred upon municipalities by Article XVIII, Section 3, Ohio Constitution, the council or other legislative body of a municipality may consent to the resumption of business by a closed municipal depository under a plan whereby the debtor is discharged from its obligation to the extent of 50% of the debt.*

COLUMBUS, OHIO, February 27, 1934.

HON. EDWIN S. DIEHL, *Prosecuting Attorney, Defiance, Ohio.*

DEAR SIR:—I have your letter of recent date, which reads as follows:

"Plans are being perfected for the creation of a new State Bank in the Village of Sherwood, to take over selected assets of the Sherwood