

section, it will be observed, permits a board of education to provide transportation for high school pupils but does not require such transportation to be furnished unless it is deemed and declared by the county board of education to be advisable and practicable. High school transportation, therefore, need not be furnished in any case except where it is declared by the county board of education to be advisable and practicable.

Inasmuch as the county board of education in question has not deemed it to be advisable and practicable to transport high school children who live less than four miles from the school to which they are assigned, in the district referred to, I am of the opinion that such transportation need not be furnished, regardless of the provisions of Section 7730, General Code.

Respectfully,

GILBERT BETTMAN,

Attorney General.

3790.

SIGNATURE—BOARD OF EDUCATION—MAY USE MECHANICAL
DEVICES TO SIGN CHECKS AND WARRANTS.

SYLLABUS:

A board of education may legally use mechanical devices for signing payroll checks where the officers whose names are affixed thereto, authorize and adopt such signatures as their own.

COLUMBUS, OHIO, November 28, 1931.

Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

GENTLEMEN:—This will acknowledge your recent request for my opinion relative to matters contained in two letters—one from one of your Assistant Examiners, and the other from the Clerk-Treasurer of a board of education. Your request reads as follows:

“We are enclosing herewith a letter from one of our Assistant Examiners, together with a letter addressed to him by the Clerk-Treasurer of the Board of Education of a city school district, with reference to the legality of the use of mechanical devices for signatures on payroll checks, which are issued in accordance with the provisions of Section 7612-1 of the General Code, also with reference to the legality of the use of rubber stamp for the signature of the President of the Board and the Clerk-Treasurer upon warrants.

You are respectfully requested to furnish this Department your written opinion upon the questions submitted in these letters.”

The letter from your Assistant Examiner reads:

“The Board has purchased a mechanical signature machine for the signing of payroll checks similar to that used by the State. I questioned this at the time of the purchase but owing to the fact that our checks in Columbus were similarly written, nothing more has

been said. The question has been submitted to the Law Department by the Board and they have asked that I get a ruling on it.

This also brings up the old question of using rubber stamps on checks, which I had taken up with you some years ago. The President and Clerk's name appear on the check with a rubber stamp and the check is actually signed by a Deputy Clerk.

I am attaching a letter from Mr. G., in which he asks these questions."

The accompanying letter is in substance, the same as the foregoing. Section 7612-1, General Code, to which you refer, reads as follows:

"In city school districts the salaries of all employes and officers of the board of education and all payrolls may be paid in such manner as the board of education may authorize. To provide money for such payment if made in cash, the president and clerk of the board of education shall upon receipt of the proper payroll and warrant, issue checks upon the depositories payable to the treasurer for the aggregate amounts stated in such payrolls. The treasurer may thereupon make payments to employes and officers in cash, or the board of education may provide that the sums called for by the checks aforementioned, instead of being paid to the treasurer, shall be transferred to special payroll accounts established in depositories by the board of education upon such terms with the respective banks as to interest upon daily cash balances in said special payroll accounts, and under such other conditions as the board of education may prescribe. In the event such special payroll accounts are established by a board of education, such accounts may be drawn against by check of the treasurer of the board according to such procedure as the board of education may prescribe. * *"

Your first question no doubt concerns the legality of the use of a mechanical device for placing signatures on payroll checks.

Section 8290, General Code, defines "check" as,

"A check is a bill of exchange drawn on a bank payable on demand. Except as herein otherwise provided, the provisions of this division applicable to a bill of exchange payable on demand apply to a check."

Section 8231, General Code, defines "a bill of exchange" as follows:

"A bill of exchange is an unconditional order in writing addressed by one person to another, signed by the person giving it, requiring the person to whom it is addressed to pay on demand or at a fixed or determinable future time a sum certain in money to order or to bearer."

The question is then presented as to whether or not a check bearing stamped or fac-simile signatures of drawers may be said to have been signed

by the persons whose names appear thereon. In *Words and Phrases*, Volume 7, page 6512, it is stated that,

“In legal contemplation to sign means to attach a name or cause it to be attached by any of the known methods of impressing the name on paper, with the intention of signing it.”

In *Anderson's Law Dictionary*, under the title “Writing”, the statement is made that words traced with pen, or stamped, printed, engraved or made legible by any other device, are “written.”

In *Bouvier's Law Directory*, Volume 3, page 3071, to “sign” is defined as follows:

“To affix a signature to, to ratify by hand or seal, to subscribe in one's own handwriting.”

“Signature” is defined at page 3071 of the same volume, as:

“The act of putting down a man's name at the end of an instrument, to attest its validity. The name thus written, is also called a signature.”

It is further stated that a signature written in pencil is valid; so also is a printed signature on an instrument by the party as signed by him. *Grieb v. Cole* (Mich.) 27 N. W., 579; *Hewel v. Hagin* (Calif.) 84 Pac. 1002.

It is a general rule that a person may adopt any marks or names as his signature to an instrument, and if he does so, he is bound as effectually as if he had written his full name thereon. *Pontrich v. Neimann* (Ky.) 271 S. W., 1049; *Degginger v. Martin* (Wash.) 92 Pac., 674; *Tobas v. Emergency Fleet Corp.* 9 Fed. 2nd Ed., 648; *In re. Deep River National Bank*, 47 Atl. 675 (Conn.)

In the case of *Hill v. U. S.* 288 Fed., 192, concerning the signatures appearing on a bank's note, it was stated that,

“The fac-similie signatures of the officers of the bank were upon the note when it was put out by the bank, and there can be no question but that in law they are the true and genuine signatures of those officers.”

In the case of *National Union Banks v. Shearer* (Pa.) 74 Atl., 351, at page 354, the court drew a conclusion from modern cases which recognize signatures by means of a stamp. Citing *Bennett v. Brumfitt* L. R. 3, C. P. 28; *Robb v. Penn Co.* (Pa.) 40 Atl. 969.

The whole question was well analyzed in an opinion found in Volume 1, *Opinions of the Attorney General (U. S.)* at page 437, in which United States Attorney General William Wirt, in discussing the question of whether or not the Treasurer of the United States could impress his name by use of a stamp or copper-plate to documents required to be signed by him, said:

“There would be great difficulty in maintaining the proposition as a legal one, that when the law required signing, it means that it must be done with pen and ink. No book has laid down the proposition, or

even given color to it. I believe that a signature made with straw dipped in blood, would be equally valid and obligatory; and if so, where is the legal restriction on the implement which the signer may use? If he may use one pen, why may he not use several?—a polygraph, for example, or types—or a stamp, which the court in *Lemaign vs. Stanley*, said would be a sufficient satisfaction of the statutory requisition of signing. * * *

Upon the whole, while I admit the force of the presumption that Congress, in requiring these instruments to be signed by the Secretary, had in view his autograph executed in the usual mode; and while I admit that this ought always to be preferred when it can be done; yet I am not prepared to say that his signing with a stamp or copperplate, instead of a pen, is illegal, or that it leaves the instrument so signed invalid. On the contrary, if he keeps the stamp or copperplate in his own possession and either apply it himself, or cause it to be applied by another in his presence, and by his authority, I am of opinion that the instrument is as valid, in strict law, as if he had written his name with a pen."

In view of the foregoing, I am of the opinion that a board of education may legally use mechanical devices for signing payroll checks where the officers, whose names are affixed thereto, authorize and adopt such signatures as their own.

I am further of the view that this answer is dispositive of your inquiry, as to the placing of signatures by mechanical devices upon warrants.

Respectfully,

GILBERT BETTMAN,
Attorney General.

3791.

OFFICES INCOMPATIBLE — CITY AUDITOR AND DEPUTY
COUNTY AUDITOR.

SYLLABUS:

The same person may not simultaneously hold positions of city auditor and deputy auditor of the county in which the city is located.

COLUMBUS, OHIO, November 28, 1931.

Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

GENTLEMEN:—Acknowledgment is hereby made of your recent request for my opinion which reads:

"May the same person hold the office of auditor of a city and deputy auditor of the county in which the city is located?

In your opinion No. 3506, dated August 13th, 1931, it was held as follows:

'The same person may not at the same time lawfully hold the position of member of a board of education of a city school