

1093.

APPROVAL, BONDS OF THE VILLAGE OF GARFIELD HEIGHTS, CUYA-HOGA COUNTY, OHIO—\$34,155.00.

COLUMBUS, OHIO, September 30, 1927.

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

1094.

TRANSPORTATION OF PUPILS—BOARD OF EDUCATION SHALL PROVIDE TRANSPORTATION ONLY FOR PUPILS ATTENDING PUBLIC SCHOOLS.

SYLLABUS:

1. *Boards of Education in providing transportation for pupils attending school are limited to the providing of such transportation for pupils attending schools which are a part of the public school system of the state.*

2. *Pupils attending private schools are not entitled to the use of transportation facilities provided for pupils attending the public schools.*

COLUMBUS, OHIO, October 1, 1927.

HON. R. L. THOMAS, *Prosecuting Attorney, Youngstown, Ohio.*

DEAR SIR:—This will acknowledge receipt of your communication as follows:

"We desire your opinion of Section 7731 of the General Code as to whether students attending a parochial school situated near a centralized school are entitled to transportation as far as the centralized school on busses provided for said centralized school."

Boards of education are mere governmental agencies created by statute, for the purpose of rendering effective that thorough and efficient system of common schools throughout the state, which the General Assembly is directed by the constitution to secure by taxation or otherwise, and for the purpose of administering the provisions made by law for the organization, administration and control of the public school system of the state, supported by public funds.

As such creatures of statute, it has been held that the powers of such boards of education in the expenditure of public funds are limited to such as are expressly granted or such as must necessarily be implied for the accomplishment of the ends for which they have been created.

The primary purpose of the public school system of the state, is to provide means of instruction for the youth of school age within the state. In the growth of this system it has been determined that the interests of efficiency to centralize and classify the means of instruction in such manner as to result in the establishment of

centralized schools and high schools, located at points where it would sometimes be not only inconvenient but in many instances practically impossible for pupils to attend, in the absence of some means being provided whereby the pupils may be brought together and thus secure the advantage of the increased facilities brought about by the centralization.

For this purpose laws authorizing the transportation of pupils have been enacted which provide for the payment from public funds of the cost of such transportation to the school building wherein the instruction is given. This transportation is a mere incident to the primary purpose for which the public schools are organized and inures to the benefit of such pupils only as choose to attend the schools provided for them under the law.

Pupils are not required to attend the public schools unless they so desire. While, with certain exceptions, attendance at school is compulsory for children of school age as provided by Sections 7762, et seq., General Code, specific provision is made to the effect that the requirements of this compulsory school law are satisfied if the child attend a parochial or private school (Section 7762-6, General Code). But there is no provision of law authorizing the providing of transportation for pupils other than those attending the schools which are a part of the public school system of the state.

This subject was considered in its relation to the transportation of pupils to both elementary and high schools and the specific statutes relating to the providing of transportation were construed in a former opinion of this department, viz., Opinion No. 726, rendered under date of July 11, 1927, to the prosecuting attorney of Ottawa County. The syllabus of this opinion, a copy of which is enclosed herewith, reads as follows:

“There is no authority for the payment of tuition or the furnishing of transportation from public funds for pupils attending private schools, and any payments made therefor by a board of education are illegal.”

I am therefore of the opinion that pupils attending private schools are not entitled to the use of transportation facilities provided for pupils attending the public schools and that boards of education are without authority to furnish transportation for pupils attending other than the public schools.

Respectfully,
EDWARD C. TURNER,
Attorney General.

1095.

APPROVAL, CONTRACT BETWEEN THE STATE OF OHIO AND THE NEFF LUMBER COMPANY, NEFFE, OHIO, FOR REMODELING THIRTEEN TYPE A AND FOUR TYPE B COTTAGES, OHIO SOLDIERS' AND SAILORS' ORPHANS' HOME, XENIA, OHIO, AT AN EXPENDITURE OF \$62,576.00—SURETY BOND EXECUTED BY THE AETNA CASUALTY AND SURETY COMPANY.

COLUMBUS, OHIO, October 1, 1927.

HON. GEORGE F. SCHLESINGER, *Director of Highways and Public Works, Columbus, Ohio.*

DEAR SIR:—You have submitted for my approval a contract between the State of Ohio, acting by the Department of Highways and Public Works, for and on behalf