

63.

DISAPPROVAL, BONDS OF VILLAGE OF DELTA, FULTON  
COUNTY, \$30,600.00.

COLUMBUS, OHIO, February 9, 1923.

*Department of Industrial Relations, Industrial Commission of Ohio, Columbus,  
Ohio.*

Re: Bonds of Village of Delta, Fulton County, \$30,600.00.

GENTLEMEN:—I have examined the transcript furnished this office providing for the above bond issue and find that the legislation provides for the issuance of bonds under sections 3821 and 3939 G. C., to pay the village's portion of a sewer improvement, and under section 3915 G. C., to pay the property owners' portion and issue bonds in anticipation of the collection of special assessments as provided in sections 3914 and 3914-1 G. C., as amended by 109 O. L., 340. The transcript provides for a single issue for these two purposes.

The issuance of bonds under sections 3821 and 3839 G. C. contemplates proceedings entirely different from the proceedings as now contemplated by the issuance of bonds under section 3914 G. C., as amended. The proceedings in each case are of such nature that it is in violation of section 4226 G. C. to have both issues under the one proceeding.

The transcript furthermore does not show proceedings and legislation sufficient to make a valid and binding obligation under section 3914 G. C.

I am of the opinion that the bonds as herein provided for would not be a legal and valid obligation of the village and therefore advise the Industrial Commission not to purchase the same.

Very respectfully.

C. C. CRABBE,  
*Attorney General.*

64.

BOARD OF EDUCATION EMPLOYING TEACHER FOR PUBLIC OR  
SEMI-PUBLIC OR CHILDREN'S HOME MUST HAVE APPROVAL  
OF SUPERINTENDENT OF HOME—NOT BEFORE DISMISSAL OF  
TEACHER OR DISCONTINUING POSITION.

## SYLLABUS:

*The board of education of a school district, in which is located a county, semi-public or district children's home, when employing a teacher or teachers for a school maintained at the home, is required to have the approval of the superintendent of the home before the employment is complete under section 7676 G. C. Such approval is not necessary, however, before dismissal of said teacher or*

*teachers may be made. Neither is such approval of the superintendent necessary before discontinuing a teaching position or reducing the number of teachers at such home.*

COLUMBUS, OHIO, February 10, 1923.

HON. VERNON M. RIEGEL, *Superintendent of Public Instruction as Director of Education, Columbus, Ohio.*

DEAR SIR:—Acknowledgment is made of the receipt of your letter, which is as follows:

“Section 7676 G. C. reads as follows:

‘The inmates of a county, semi-public or district children’s home shall have the advantage of the privileges of the public schools. So far as possible such children shall attend such school or schools in the district within which such home is located. Whenever this is impossible and a school is maintained at the home, such school shall be under the control and supervision of the city, township, village or special board of education, having jurisdiction over the school district within which such home is located. Such board of education shall employ with the approval of the superintendent of the home necessary teachers, and provide books and educational equipment and supplies, and conduct such school in the same manner as a public school within the district. The trustees of the home shall furnish necessary furniture, fuel and light.’

It will be noted that a board of education is to employ teachers ‘with the approval of the superintendent of the home.’ Your opinion is desired as to whether a board of education may dismiss a teacher without the approval of the superintendent of the home. Your opinion is also desired as to whether a board of education may discontinue a teaching position, as, for instance, reduce the number of teachers from two to one, without the approval of the superintendent of the home.”

It will be noticed that section 3088 G. C. provides as follows:

“Children of school age who are inmates of a county, semi-public or district children’s home shall be given an elementary education after the manner described in section 7676.” 107 O. L., 61.

Section 7681 G. C. provides as follows:

“The schools of each district shall be free to all youth between six and twenty-one years of age, who are children, wards or apprentices of the actual residents of the district, but the time in the school year at which beginners may enter upon the first year’s work of the elementary schools shall be subject to the rules and regulations of the local boards of education. Inmates of the proper age of county, semi-public and district children’s homes shall be admitted after the manner described in section 7676. \* \* \*”

Section 7690 G. C. provides for the “control” of public schools in the following language:

“Each city, village or rural board of education shall have the management and control of all of the public schools of whatever name or

character in the district, except as provided in laws relating to county normal schools. It may elect, to serve under proper rules and regulations, a superintendent or principal of schools and other employes, including, if deemed best, a superintendent of buildings, and may fix their salaries.  
\* \* \*

"Each board shall fix the salaries of all teachers. \* \* \*"

It will be noted that section 7676 G. C. provides that if

"possible such children shall attend such school or schools in the district within which such home is located. Whenever this is impossible and a school is maintained at the home, such school shall be under the control and supervision of the city, township, village or special board of education, having jurisdiction over the school district within which such home is located."

If such school is maintained at the "home", the above mentioned section provides, "such board of education shall employ, *with the approval of the superintendent of the home necessary teachers*" etc.

"In construction of statutes legislative intent must be sought first of all in the language of the statute itself \* \* \* ."

Black, Interpretation of Laws, section 35.

From the phraseology now employed in the sections of the statutes quoted, it seems reasonably clear that it was the intent of the legislature to provide

"the advantage of the privileges of the public schools"

in the first place to the children who were inmates of the institutions mentioned, and it seems equally clear that the only limitation on the "control" is that when employing a teacher or teachers for a school conducted at the "home", that it shall be "with the approval of the superintendent of the home" and the responsibility of providing suitable and proper school advantages is placed upon the board of education of the district. It may increase or decrease the number of teachers whenever in its judgment proper school facilities are provided for the inmates of the homes in question, and subject only to the limitation that when a board employs a teacher, it must be with the approval of the superintendent of the home. It may dismiss a teacher or reduce the number of teachers without such approval, but when it employs another teacher or teachers, it must be with the approval of the superintendent.

This provision is in some respects not unlike a case where the appointive power is vested in an officer and confirmation of that appointment vested in another officer or body. However, it is unusual and not required in such cases to have such confirmation upon the dismissal of the appointee.

Specifically referring to your questions, I am of the opinion that each should be answered in the affirmative.

Respectfully,  
C. C. CRABBE,  
*Attorney General.*