

In pursuance of this Act, Kent State Normal School was established. The act provided for the appointment of a board of trustees for the proposed normal school in northeastern Ohio, which board was authorized to establish, organize and maintain a normal school at said place.

By an act of the legislature, passed in 1929 (113 O. L., 34) the name of Kent State Normal School was changed to Kent State College. This act was codified as Sections 7924 to 7924-3, inclusive, of the General Code. The act provided that the board of trustees of the said normal school should continue to exercise its powers and perform its duties with respect to said Kent State College as before, with authority to provide additional courses and instructors and to confer certain honorary degrees usually conferred by colleges. Section 7924-3, General Code, provides that Kent State College shall be supported by such sums and in such manner as the General Assembly may provide. In pursuance of this provision the General Assembly provides for the maintenance of said college by specific appropriations thereto, which sums so appropriated may be expended by the trustees of said college for the support and maintenance of the college and according to the tenor of the said appropriations.

This act did not change the status of said college or of its board of trustees, so far as its being an agency or arm of the state is concerned. A claim for damages against the college or the trustees of the college would virtually be a claim against the state. The state is sovereign, and to permit proceedings against it in the nature of a proceeding for the collection of damages would be tantamount to a denial of sovereignty. In its sovereign capacity the state can do no legal wrong; nor can administrative officials, boards or commissions in carrying out the sovereign functions of the state.

It is a fundamental principle of law, that the state as a sovereign, is not liable to be sued in its own courts without its express consent. No legislative action has been taken authorizing suit against the state for claims such as the one here under consideration.

It is equally fundamental that administrative boards and commissions created by statute, have no powers except such as are expressly granted to them by the statute, together with such incidental powers as may be necessary to carry out and perform the express powers granted to them. While the powers extended to the Trustees of Kent State College to administer the affairs of the college are broad in terms, no express authority exists to pay or compromise claims of this nature, and it can not be said that the power to do so is a necessary incident of any express power granted to them.

In the absence of any statute empowering or authorizing the Board of Trustees of Kent State College to pay or compromise a claim of this kind, I am of the opinion that it is without authority to do so.

Respectfully,

GILBERT BETTMAN,
Attorney General.

4161.

APPROVAL, BONDS OF DEERFIELD TOWNSHIP RURAL SCHOOL DISTRICT—MORGAN COUNTY, OHIO—\$20,000.00.

COLUMBUS, OHIO, March 17, 1932.

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