

plete a school building in the district when such building has been erected and constructed to its incomplete state from the proceeds of bonds issued by a board of education on the vote of the electors of the school district. That the work to be done in completing an unfinished school building is a permanent improvement under the provisions of Section 2293-2, can hardly be doubted. As before noted, Sections 7625 and 2293-2, General Code, were enacted in and as a part of the same act and the apparent intent and purpose of the Legislature, as disclosed by the comprehensive provisions of this act, is to authorize a school district or other political subdivision, within the limitations and in the manner provided for in said act, to issue bonds for any permanent improvement that it is authorized to acquire or construct.

By way of specific answer to your question, I am of the opinion that the board of education of a school district has the power to issue bonds without a vote of the electors for the purpose stated in your inquiry, subject, of course, to the limitations as to the amount of such bond issue provided for in Sections 2293-15 and 2293-18, General Code, enacted as a part of the Uniform Bond Act above referred to. In conclusion it will be observed that this opinion is confined to the precise question stated in your communication, as I have construed the same. It may also be observed that if the board of education of a school district faithfully observes the statutory provisions relating to contracts calling for the expenditure of monies in hand as the proceeds of bonds issued on a vote of the electors of a school district for the purpose of erecting, constructing and equipping a school building, there will rarely be any occasion for resort to a subsequent bond issue, either with or without a vote of the electors of the school district, for the purpose of completing such school building.

Respectfully,
EDWARD C. TURNER,
Attorney General.

1766.

INSURANCE—CONTRACT TO MAINTAIN REPAIRS ON AUTOMOBILES
DISCUSSED.

SYLLABUS:

Where a company in Ohio in consideration of a sum certain, contracts to maintain repairs in a workmanlike manner of certain exterior parts of an automobile from a certain date to a certain date, made necessary by collision or other similar accidental violence, the transaction is a contract substantially amounting to insurance under the terms of Section 665, General Code.

COLUMBUS, OHIO, February 27, 1928.

HON. WILLIAM C. SAFFORD, *Superintendent of Insurance, Columbus, Ohio.*

DEAR SIR:—This will acknowledge receipt of your recent communication requesting my opinion as follows:

“At your convenience, will you kindly give consideration to the enclosed specimen contract of the National Service Guarantee, Incorporated, of Hartford, Connecticut.

We desire to know whether the proposition of this concern constitutes an insurance business."

Accompanying your letter is a blank application for membership in the company in question in the following form:

"Date-----, 192__

Home Address-----City-----

Name-----Business Address-----City-----

Make of Car-----Type or Model-----Year-----

Motor No.-----Registration No.-----

Date-----Time of Inspection-----Place-----

Representative-----

The service contract applied for shall not be considered in force and shall not in fact be in force until the automobile described herein shall be inspected by a representative of the corporation and a complete check of the condition of said automobile endorsed on the back of this application and a copy of said application and check delivered to the owner.

The applicant stipulates and agrees that he has read all the terms and conditions of this application including the check of the condition of his automobile appearing on the reverse hereof.

Signed-----"

Also accompanying your letter is a blank copy of contract between the company and the applicant in the following form:

"In consideration of ----- Dollars (\$-----) receipt whereof is hereby acknowledged, ----- hereby employs the National Service Guarantee, Inc., to maintain repairs in a workman-like manner upon the following parts of the automobile, described as follows:

Make of car----- Type-----

Registration No.----- Engine No.-----

while owned by the said-----for the period from ----- 19__ to ----- 19__, at twelve o'clock noon, Eastern Standard Time on both dates:

All the fenders, running boards, steps, dents in metal body, hood, cowl, side splashers, splash pan, tire rack, metal parts of head, rear, side, step and stop lights, damage to top, gasoline tank, front and rear bumpers and radiator.

This contract shall cover only repairs made necessary by collision or other similar accidental external violence, but shall not cover repairs made necessary by inherent defects in the above named parts, nor repairs made necessary by or resulting from fire, flood or freezing.

Said repairs are to be made for the aforementioned consideration and without any additional cost or expense whatsoever.

No agreement, verbal or otherwise, exists in regard hereto other than that which is herein expressly set forth.

Witness the seal of the company and the signatures of its duly authorized officers this ----- day of ----- 19__.

(Corporate Seal) NATIONAL SERVICE GUARANTEE, Inc.

Countersigned: By-----

----- Secretary" President

An examination of the foregoing papers shows that the company agrees under its contract to "maintain repairs in a workmanlike manner upon the following parts of the automobile" in question from a certain date to a date certain at 12 o'clock noon, of "all the fenders, running boards, steps, dents in metal body, hood, cowl, side splashers, splash pan, tire rack, metal parts of head, rear, side, step and stop lights, damage to top, gasoline tank, front and rear bumpers and radiator."

Again it will be noted "this contract shall cover only repairs made necessary by collision or other similar accidental external violence, but shall not cover repairs made necessary by inherent defects in the above named parts, nor repairs made necessary by or resulting from fire, flood or freezing. Said repairs are to be made for the aforementioned consideration and without any additional cost or expense whatsoever."

Does this transaction on the part of the company constitute doing an insurance business, or the entering into a contract substantially amounting to insurance?

Section 665, General Code, provides as follows:

"No company, corporation, or association, whether organized in this state or elsewhere, shall engage either directly or indirectly in this state in the business of insurance, or enter into any contracts substantially amounting to insurance, or in any manner aid therein, or engage in the business of guaranteeing against liability, loss or damage, unless it is expressly authorized by the laws of this state, and the laws regulating it and applicable thereto, have been complied with."

In Corpus Juris, Vol. 32, page 975, insurance is defined as follows:

"Broadly defined, insurance is a contract by which one party, for a compensation called the premium, assumes particular risks of the other party and promises to pay to him or his nominee a certain or ascertainable sum of money on a specified contingency."

In Cooley's second edition on the Law of Insurance, at page 6, the author gives the following definition:

"Insurance has been defined in general terms as a contract by which one party undertakes to indemnify another against loss, damage or liability arising from an unknown or contingent event."

It will be observed that the company in question agrees to "maintain repairs in a workmanlike manner" of certain parts only, of the automobile in question and again it "shall cover repairs made necessary by collision or other similar accidental external violence." From information accompanying your letter it appears that this company is assuming certain of the risks known as collision damage caused to certain exterior parts mentioned of the automobile. This would be assuming certain of the risks ordinarily assumed by an insurance company writing full coverage collision insurance.

It seems that the word "maintain" as used in the contract is significant. If the part of the automobile in question is damaged beyond repair this contract would require the company to replace said part in order to "maintain" it. In this respect the contract in question exceeds the offer on the part of the company to perform repairs only in a mechanical manner. The use of this word "maintain" is equivalent to indemnifying the owner in case of loss of that part, since if the part in question

is damaged beyond repair it would require the replacement of another part to be in workmanlike condition equal to the part damaged before the injury.

Specifically answering your question, it is my opinion that where a company contracts to maintain repairs in a workmanlike manner upon certain exterior parts of an automobile for a given period of time and in consideration of a given sum, the contract is one substantially amounting to insurance under the laws of Ohio.

Respectfully,

EDWARD C. TURNER,

Attorney General.

1767.

LEASE—TAXATION OF 99 YEAR LEASE RENEWABLE FOREVER DISCUSSED—WHEN LEASED FOR CHARITABLE PURPOSES.

SYLLABUS:

The legal effect of a ninety-nine year lease renewable forever is to pass to the lessee an estate of freehold in land which is taxable to said lessee. When said land so owned, is used by said lessee exclusively for charitable purposes, it is exempt from taxation under the provisions of Section 5353, General Code.

COLUMBUS, OHIO, February 27, 1928.

The Tax Commission of Ohio, Wyandotte Building, Columbus, Ohio.

GENTLEMEN:—This will acknowledge receipt of your recent communication which reads:

“On the first day of October, 1927, a cemetery association holding title to a certain tract of real estate leased the same to an institution of learning for a term of ninety-nine years, renewable forever, the consideration moving from the lessee to the lessor being stated as follows:

“Said lessee, its successors and assigns yielding and paying therefor the following annual rentals:

‘During the 1st year of said term the sum of.....	\$8,657.50
‘During the 2nd year of said term the sum of.....	8,382.50
‘During the 3rd year of said term the sum of.....	8,107.50
‘During the 4th year of said term the sum of.....	7,832.50
‘During the 5th year of said term the sum of.....	7,557.50
‘During the 6th year of said term the sum of.....	7,282.50
‘During the 7th year of said term the sum of.....	7,007.50

‘And the sum of \$1732.50 annual rental for each and every year thereafter during the term of said lease. Said annual rentals to be payable in equal quarterly installments on the last day of each March, June, September and December during said term, the first said installment to be payable December 31, 1927, together with all taxes, assessments and other charges against said property which are now due or may hereafter be levied against said premises during said term.’