

play-fields, gymnasiums, public baths, swimming pools and indoor recreation centers, and may appropriate money therefor.'

The City of Conneaut sold its municipal light plant and a part of the proceeds were transferred on order of the common pleas court into the general fund; a part of this fund the city proposes to expend as follows. The board of education some years ago obtained property for a school site and playground and the City of Conneaut wishes to expend \$8,000.00 to aid the board of education in putting a concrete fence around this site, which will be used as a public playground.

Question: May the amount in question be expended by the City of Conneaut for the purpose mentioned?"

It is a fundamental proposition that there can be no expenditure of money by a city or any other political subdivision except there be clear statutory authority therefor. Examination of the General Code discloses no authority or provision, other than the sections to which you refer, whereby a city may expend its funds for the improvement of property owned by a board of education. Analysis of section 4065 G. C. et seq. and particularly section 4065-5 G. C., which you quote in your inquiry, does not disclose any sufficient authority for such an expenditure.

Further, in this connection your attention is directed to a former opinion of this department, found in Opinions of Attorney-General for 1922, page 1082, wherein section 4065 was considered, and where it was held in the third paragraph of the syllabus:

"Under the provisions of sections 4065-1 et seq. of the General Code, public or private school lands may not be equipped by the city for recreation purposes defined in said section."

Therefore, I am of the opinion that the City of Conneaut cannot expend its funds in the improvement of the premises owned by the city school district of said city by the building of a concrete fence around the premises.

Respectfully,
C. C. CRABBE,
Attorney-General.

3715.

**FIREMEN'S PENSION FUND OF CITY OF LANCASTER—MEDICAL FEES
MAY BE PAID FROM SAID FUND.**

SYLLABUS:

Medical fees may be properly paid from the firemen's pension fund of the city of Lancaster, when such physicians have been employed at the request of the board of trustees.

COLUMBUS, OHIO, October 16, 1926.

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

GENTLEMEN—In your recent communication you present the following inquiry:

"Section 4612 General Code reads:

'Such trustees shall make all rules and regulations for the distribution of the fund, including the qualifications of those to whom any portion of it shall be paid and the amount thereof, but no rules or regulations shall be in force until approved by the director of public safety or the fire chief of the municipality, as the case may be.'

Rule 2 adopted by the trustees of the firemen's pension fund of the city of Lancaster reads:

'Any member of the Lancaster fire department who, having performed faithful service therein for a period of not less than twelve and one-half years actual service, shall become permanently disabled from performing the duties of a fireman by reason of sickness or disease caused by such service, unless the same be of a hereditary nature or the result of vicious habits, and who shall have been removed from active duty in such department for the above cause, shall, when such disability has been determined by examination by a medical officer ordered by the trustees of the firemen's pension fund, be entitled to have his name placed by the said board of trustees of the firemen's pension fund upon the pension roll, and he shall receive a monthly pension as follows:

- (a) If such disability be partially permanent, a sum to be determined by said board of not less than \$1.00 nor more than \$50.00.
- (b) If such disability be totally permanent, a sum of \$60.00.'

Several members of the fire department who are eligible to pensions have been examined by local physicians at the request of the board of trustees and bills for such services have been presented.

Question: May medical fees for this purpose be paid from the funds under the control of the firemen's pension fund trustees?"

It would seem that Rule 2, to which you refer, was adopted in pursuance to the statutory authority of Section 4612, which you quote in your letter.

The only question, therefore, presented is whether or not a local physician making an examination at the request of the board of trustees is the equivalent of "examination by a medical officer ordered by the trustees," as provided in the rule. No doubt under the rule the trustees could appoint a physician as an officer and he could be compensated out of the fund. Certainly such an examination is essential in order to properly protect such funds, and such an expense would be a proper one to be borne by the fund.

The practice adopted in the inquiry presented would not seem to be in conflict with the authority of the rule, and would seem to be a substantial compliance therewith, and it is my opinion that such bills may properly be paid from such fund.

Respectfully,

C. C. CRABBE,
Attorney-General.

3716.

COSTS OF OPERATION OF STATE FAIR SHALL BE PAID FROM FUND APPROPRIATED BY THE LEGISLATURE.

SYLLABUS:

It is the intent of the law that the total expenditure and costs of the operation of the State Fair shall be paid from the fund appropriated by the legislature, and that all receipts from such operation shall be paid into the state treasury to the credit of the agricultural division of the general revenue fund.