

1550.

APPROVAL, BONDS OF ASHVILLE VILLAGE SCHOOL DISTRICT, PICK-
AWAY COUNTY, OHIO—\$45,000.00.

COLUMBUS, OHIO, January 9, 1928.

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

1551.

BOARD OF EDUCATION—AUTHORITY TO FURNISH PERSONAL
NECESSITIES OR MEDICAL CARE TO PUPILS DISCUSSED.

SYLLABUS:

1. *The authority vested in boards of education by virtue of Section 7777, General Code, to furnish personal necessities or medical care to children attending school, extends only to cases where the child in question is of compulsory school age and is unable to attend school because absolutely required to work at home or elsewhere in order to support himself, or help to support or care for others legally entitled to his services, who are unable to support or care for themselves.*

2. *Children of compulsory school age, other than those coming within the class described in Section 7777, General Code, whose eyesight is so defective that they are unable to do school work, or whose eyesight is so defective that by attempting to do school work without the use of eyeglasses their health would be impaired, and whose parents, or other persons upon whom such children are dependent, are financially unable to procure glasses for said children, should be furnished glasses by the proper municipal or township authorities, by virtue of the authority vested in them by Section 3476, General Code.*

COLUMBUS, OHIO, January 9, 1928.

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

GENTLEMEN:—I am in receipt of your communication requesting my opinion in answer to the following question:

“A child of compulsory school age whose eyesight is defective to such an extent as to make it impossible for him to do good school work, the strain on the eyes being a menace to the general health, and the parents of the child are unable to pay for the necessary glasses, which the child should have, may the board of education furnish such necessary glasses under the provisions of Section 7777, G. C., or any other section of the law?”

Section 7777, General Code, reads as follows :

"When an attendance officer is satisfied that a child compelled to attend school is otherwise unable to do so because absolutely required to work at home or elsewhere in order to support himself or help to support or care for others legally entitled to his services who are unable to support or care for themselves, such officer must report the case to the president of the board of education of the city, exempted village, village or rural school district in which such child resides. Upon proof of such fact the given board of education shall furnish free of charge text books and such other personal necessities for the child or persons entitled to his service and also such medical care in co-operation with the health commissioner of the district as may be necessary to enable the child to attend school. The expense incident to furnishing such relief must be paid from the contingent fund of the school district. Such child shall not be considered a pauper by reason of the acceptance of such relief. If the child or its parent or guardian refuses or neglects to take advantage of the provision thus made for its instruction, action may be taken against the parent or guardian or child as provided in Sections 7773, 7774 or 1645, General Code."

It will be observed from the terms of the foregoing statute that there is only one class of children to whom boards of education are authorized by virtue of this statute to furnish relief in the form of personal necessities and medical care in order to enable such children to attend school. That class is plainly described in the statute in the following language :

"a child compelled to attend school * * * otherwise unable to do so because absolutely required to work at home or elsewhere in order to support himself or help to support or care for others legally entitled to his services who are unable to support or care for themselves."

The mere fact that a child's eyesight is defective to such an extent as to make it impossible for him to do good school work, and that by attempting to do school work the strain is so great as to be a menace to the child's health, does not in and of itself, bring the child within the class of children described in the statute.

The pertinent parts of Section 7777, *supra*, were contained in Section 4022-9, Revised Statutes of Ohio, as amended in 1908, (99 O. L. 477.) Soon after its passage as amended, the following question was submitted to the Attorney General for his opinion :

"Have boards of education authority to furnish relief to any children in their district other than those children who are unable to attend school because absolutely required to work at home or elsewhere in order to support themselves or help to support or care for others legally entitled to their services who are unable to support themselves?"

The then Attorney General in his reply thereto, (Annual Report of the Attorney General for 1909 and 1910, page 639) held :

"I am of the opinion * * * that it is the duty of the board of education to make the provision for the relief specified in Section 4022-9, Revised Statutes, only in the case of pupils coming within the classes speci-

fied in such section and that it is the duty of the officers upon whom the general relief of the poor is enjoined by the statutes to make provisions for the relief of all pupils other than those coming within the classes so specified by Section 4022-9, Revised Statutes."

Sections 3476, 3480 and 3481, General Code, read in part, as follows:

Sec. 3476. "Subject to the conditions, provisions and limitations herein, the trustees of each township or the proper officers of each city therein, respectively, shall afford at the expense of such township or municipal corporation public support or relief to all persons therein who are in condition requiring it. * * * "

Sec. 3480. "When a person in a township or municipal corporation requires public relief, or the services of a physician or surgeon, complaint thereof shall be forthwith made by a person having knowledge of the fact to the township trustees, or proper municipal officer. * * * "

Sec. 3481. "When complaint is made to the township trustees or to the proper officers of the municipal corporation that a person therein requires public relief or support, one or more of such officers, or some other duly authorized person, shall visit the person needing relief, forthwith, to ascertain his name, age, sex, color, nativity, length of residence in the county, previous habits and present condition and in what township and county in this state he is legally settled. * * * "

By the terms of Section 1261-26, General Code, boards of health are authorized to provide for the medical and dental supervision of school children, and by the terms of Section 7692, General Code, boards of education are authorized to employ school physicians who shall make examination and diagnosis of the school children and notify the parents of any conditions which they find that should be corrected.

Parents, guardians or other persons, who have the care of children of compulsory school age, are required to send such children to school, or instruct them, or have them instructed as provided by law unless such children are employed on an age or schooling certificate, or have been determined, as provided by law, to be mentally incapable of profiting substantially by further instruction.

A child who is compelled by law to attend school and who is unable to do school work on account of defective eyesight, or one whose health is being impaired because of a lack of eyeglasses is just as fit and proper a subject for relief as a person who is without the other necessities of life. Glasses for such a child are just as necessary to the welfare of the child as are food and clothing. A lack of eyeglasses could not be plead as an excuse for failure to comply with the laws relating to compulsory education and yet the lack of glasses makes it physically impossible for the child properly to perform his school work and is to say the least, in many cases, detrimental to the child's health.

The law contemplates that boards of health, boards of education, and other authorities should co-operate in the conduct of schools when necessary, to the end that all the children of school age may receive the benefits of the free public school system of the state. A case such as you submit must necessarily soon come to the attention of the teachers and other school authorities and when it does it becomes their duty to notify the proper authorities as provided by Section 3480, supra, and it then becomes the duty of the said authorities to make the proper investigation and extend the lawful, proper and necessary relief.

It is my opinion, however, that when a child needs public relief in order for it to attend school or to do proper school work without menacing its health that relief can not be extended by the board of education by authority of Section 7777, General Code, unless the child comes within the same classification as the child described in the statute.

Respectfully,
EDWARD C. TURNER,
Attorney General.

1552.

BILL OF SALE—SHERIFF'S SALE BY ORDER OF COURT—CONTENTS OF
BILL OF SALE WHEN PREVIOUS STATEMENTS OF OWNERSHIP
CANNOT BE LOCATED.

SYLLABUS:

The provisions of Section 6310-8, General Code, in so far as they require a sheriff, bailiff or other like officer selling an automobile on order of court, to deliver to the transferee "all former bills of sale or statements of ownership" with the bill of sale executed by such officer, do not apply where such officer, in the exercise of the utmost diligence to obtain such former bills of sale or statements of ownership or certified copies thereof, is unable to do so. In such case the bill of sale executed by such officer should contain a full and complete statement of facts showing such impossibility as a part of the "special facts in the premises" provided for in said section of the General Code.

COLUMBUS, OHIO, January 9, 1928.

HON. CHALMERS R. WILSON, *Commissioner of Motor Vehicles, Columbus, Ohio.*

DEAR SIR:—This is to acknowledge receipt of a communication from you enclosing a letter from the clerk of the Municipal Court of Alliance, Ohio, and requesting my opinion upon the question therein stated. The letter of the clerk is as follows:

"Upon automobiles or motor vehicles taken by our bailiff upon an order of attachment or execution, and then later ordered sold by the court, will we be compelled to furnish the previous bills of sale in making bill of sale to the purchaser at our bailiff sale?"

In many instances we do not have the previous bills of sale, and do not know where to secure same as the defendants' whereabouts in many cases are not known; and therefore it would be impossible for us to obtain the previous bills of sale or certified copies of same.

Will you kindly give us a ruling on same so that we may be able to effect a valid bill of sale to the purchaser of used motor vehicles which are sold at the bailiff sale?"

The question here presented calls for the construction and application of Section 6310-8, General Code, as amended in 111 O. L. 468, which section reads as follows:

"Each buyer, purchaser, transferee or person receiving or obtaining a 'used motor vehicle' shall obtain from the owner, vendor or person conveying or transferring such 'used motor vehicle,' at or before such sale, transfer,