

4.

APPROVAL, BONDS PLEASANT TOWNSHIP RURAL SCHOOL DISTRICT,  
MARION COUNTY, \$70,000.00.

COLUMBUS, OHIO, January 15, 1927.

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

5.

VOLUNTEER FIREMAN—PROPERLY EMPLOYED—MEMBER OF FIRE  
DEPARTMENT AS CONTEMPLATED BY SECTIONS 4647-1 TO 4647-9,  
G. C.

**SYLLABUS:**

*One properly employed as a volunteer fireman is a member of a fire department in contemplation of Sections 4647-1 to 4647-9, inclusive, of the General Code.*

COLUMBUS, OHIO, January 15, 1927.

HON. LOUIS F. MILLER, *State Fire Marshal, Columbus, Ohio.*

DEAR SIR:—I am in receipt of your letter of January 10, 1927, as follows:

"I would appreciate an opinion from your department as to whether or not Section 4647-1 to 4647-9 of the General Code of Ohio, applies to volunteer fire departments, in which the members of the department are paid only a nominal sum for fighting fires, usually a dollar an hour."

Section 4647-1 of the General Code, provides:

"That in all municipalities having no firemen's pension fund created under the provisions of chapter I, title 12, division 6 of the General Code of Ohio, and having and maintaining therein a fire department supported in whole or in part at public expense, a firemen's indemnity fund shall be created and disbursed as herein provided."

Sections 4647-1 to 4647-9 of the General Code providing for the creation of a "firemen's indemnity fund" does not distinguish between volunteer and regularly employed firemen. This indemnity fund is for the protection of firemen. Webster defines fireman as "a man whose business is to extinguish fires—a member of a fire company."

Section 4390 of the General Code, provides:

"Council may provide for the employment of such firemen as it deems best and fix their compensation, or for the services of volunteer firemen.  
\* \* \*"

This section authorizes the council of a village to provide for the employment of volunteer firemen.

Nothing in Sections 4647-1 to 4647-9 requires full-time service as a fireman as a qualification or limitation to the privileges of the indemnity fund therein created. These sections of the Code intend to provide an indemnity fund for disabled firemen whether regularly so employed or volunteer.

It is my opinion that one properly employed as a volunteer fireman is a member of the fire department in contemplation of Sections 4647-1 to 4647-9 of the General Code, and that said sections apply to volunteer fire departments.

Respectfully,  
EDWARD C. TURNER,  
*Attorney General.*

6.

UNDER SECTION 2919, G. C., UPON A NOLLE PROSEQUI BEING ENTERED, PHOTOGRAPHS, PICTURES, DESCRIPTIONS, FINGER PRINTS, MEASUREMENTS, ETC., OF ACCUSED NOT HABITUAL CRIMINAL UNDER SENTENCE FOR VIOLATION OF STATE LAWS SHALL BE GIVEN TO ACCUSED UPON REQUEST—BUREAU OF CRIMINAL IDENTIFICATION AND INVESTIGATION MAY MAKE RULES—EVIDENCE FURNISHED.

*SYLLABUS:*

1. *Upon a nolle prosequi being entered under provisions of Section 2919 of the General Code, any photographs, pictures, descriptions, finger prints, measurements and such other information as may be pertinent taken by virtue of Section 1841-18 of an accused who is not a well known and habitual criminal, or who is not confined in any workhouse, jail, reformatory or penitentiary, for the violation of state laws, shall be given to the accused upon his request.*

2. *The Bureau of Criminal Identification and Investigation may make such reasonable rules as they deem just as to what evidence should be furnished said bureau that a nolle prosequi had been entered.*

COLUMBUS, OHIO, January 17, 1927.

*The Ohio State Bureau of Criminal Identification and Investigation, Columbus, Ohio.*

GENTLEMEN:—This will acknowledge receipt of your letter of January 10, 1927, requesting my opinion upon the following:

“The matter in question is the provision of this section which permits the return of finger prints to the accused when he be found not guilty of the offense charged. We have been requested by attorneys of Cincinnati to return criminal records of two men charged with robbery, the charges having been nolle'd by the prosecuting attorney.

We do not know if the provisions of this section intended to include the nolle prosequi and we would be pleased if you would advise what procedure we should follow in this matter as we will no doubt have similar requests in the future.

We have not been advised by the prosecuting attorney of Cincinnati as to his action in the case of these two men although we have requested him to forward this information, therefore, in any case, we do not believe these records which have become the property of the state, should be relinquished