

transmitting for my examination and approval a deed form to be executed by the Governor, conveying to one Henrietta Haefner Parcel No. 16 of surplus Miami and Erie canal lands, which deed is one for the purpose of correcting a deed executed by the Governor to said grantee under date of January 7, 1929, and which deed did not bear the approval of the Attorney General.

The deed submitted is in compliance with law, and I, therefore, approve the same as to form.

Under Section 9 of the act of April 20, 1927, 112 O. L. 210, you are authorized to sell such parcels of surplus Miami and Erie canal lands subject to the approval of the Governor and the Attorney General. I hereby approve the sale of the parcel of land designated and described in this deed, and accordingly endorse my approval on the deed form, which is herewith returned.

Respectfully,
GILBERT BETTMAN,
Attorney General.

216.

APPROVAL, BONDS OF CITY OF ZANESVILLE, MUSKINGUM COUNTY—
\$12,000.00.

COLUMBUS, OHIO, March 19, 1929.

Industrial Commission of Ohio, Columbus, Ohio.

217.

APPROVAL, FINAL RESOLUTIONS ON ROAD IMPROVEMENTS IN
HAMILTON COUNTY.

COLUMBUS, OHIO, March 19, 1929.

HON. ROBERT N. WAID, *Director of Highways, Columbus, Ohio.*

218.

FIRE APPARATUS—FOR VOLUNTEER FIRE COMPANIES—JOINT PUR-
CHASE BY TOWNSHIPS ILLEGAL.

SYLLABUS:

Two or more townships may not legally join in furnishing fire apparatus and appliances to a volunteer fire company for the purpose of furnishing fire protection to such townships.

COLUMBUS, OHIO, March 20, 1929.

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

GENTLEMEN:—Your recent communication reads:

“You are respectfully requested to furnish this department with your written opinion upon the following:

Under the provisions of Section 3298-54, General Code, township trustees are authorized to establish all necessary regulations to guard against the occurrence of fires and when a volunteer fire company has been organized for services in the township of such character as to give assurance of permanency and efficiency, the trustees may purchase and provide for the use of such company such fire apparatus and appliances as may seem to the trustees advisable.

Question: May two or more townships join in the furnishing of fire protection to such townships, by furnishing fire apparatus and appliances to a volunteer fire company located in such position as to be available in all such townships?"

Section 3298-54 of the General Code, to which you refer, was under consideration by my predecessor in Opinion No. 2955, issued under date of November 30, 1928, to Hon. Jay R. Pollock, Prosecuting Attorney of Defiance County, in which said opinion it was held, as disclosed in the syllabus:

"Township trustees may lawfully pay from township funds for the use of a fire department maintained by a neighboring political subdivision for the purpose of protecting the lives and property of citizens of the township against damages resulting from fires. Payment may be made therefor at an agreed price per year or per month, or for each fire as it occurs."

Said opinion contains a comprehensive discussion of the powers of boards of trustees generally. It was pointed out in said opinion that township trustees have only such powers as are expressly granted to them by statute and such implied powers as are necessary to carry into effect the express powers granted. The opinion above referred to, among others, makes reference to an opinion found in Opinions of the Attorney General for 1920, page 1065, wherein it was held:

"The statutes of Ohio do not authorize the joint purchase of fire apparatus by the township trustees and the council of a village within the township."

Opinion No. 2955, supra, also referred to an opinion found in Opinions of the Attorney General for 1924, page 82, wherein, among other things, it was also held that the statutes did not authorize the township trustees and council of a village to jointly purchase fire apparatus. However, said Opinion No. 2955, supra, did hold that Section 3298-34, General Code, was sufficiently broad to authorize township trustees to arrange for fire protection for the inhabitants of the township by means of renting equipment owned by municipalities. It seems to be a well settled proposition of law that two or more subdivisions may not legally undertake to do jointly that which they may do severally, in the absence of express statutory authority. For instance, the Legislature apparently deemed it necessary to pass Section 3615-1 of the General Code to authorize municipalities to proceed in joint undertakings. Also, in an opinion of my predecessor, No. 2843, issued under date of November 7, 1928, to your department, it was held that a county and city could not legally enter into a joint agreement for the purpose of equipping and maintaining an airport.

In view of the foregoing, and in specific answer to your inquiry, you are advised that two or more townships may not legally join in furnishing fire apparatus and appliances to a volunteer fire company for the purpose of furnishing fire protection to such townships.

Respectfully,
GILBERT BETTMAN,
Attorney General.