

Section 1579-586 says the clerk shall pay over to the proper parties all moneys collected by him as clerk.

The part of said section which says "He shall receive and collect all costs, fines and penalties; he shall pay the same monthly to the treasurer of the city of Piqua," under the rule laid down in the Nolte case applies only to ordinance cases, as state cases are made an exception in this section the same as in section 4270, and the only question raised therein is because of the use of the word "cash," and "cash," in my opinion, does not cover "fees" under this section.

It is my opinion, therefore, that the chief of police of Piqua is entitled to his fees in state cases.

This being true, it follows that the chief and other police officers, except the bailiff, of Piqua, are entitled to their fees in state cases, which include those collected by the clerk of courts of Miami county in felony cases.

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

2272.

APPROVAL, ARTICLES OF INCORPORATION OF THE CONTINENTAL
AUTOMOBILE MUTUAL INSURANCE COMPANY.

COLUMBUS, OHIO, March 9, 1925.

HON. THAD H. BROWN, *Secretary of State, Columbus, Ohio.*

2273.

APPROVAL, AMENDMENT TO THE ARTICLES OF INCORPORATION OF
THE ALLIED MOTOR MUTUAL INSURANCE COMPANY.

COLUMBUS, OHIO, March 9, 1925.

HON. THAD H. BROWN, *Secretary of State, Columbus, Ohio.*

2274.

LAW RELATING TO TRANSPORTATION OF SCHOOL CHILDREN DIS-
CUSSED.

SYLLABUS:

Although the sections of the General Code of Ohio relating to the subject of transportation of school children require that when transportation is furnished the school conveyance shall pass within one-half mile of the residence of such pupils, said sections do not justify

a board of education entering into an arrangement or agreement whereby such board agrees to pay the parents of certain pupils any sum of money in consideration of the parents either agreeing to transport their children, or agreeing to induce or require their children to walk from their several places of residence a greater distance than said one-half mile to a point on the public highway where the school bus or school conveyance passes and receives such children.

COLUMBUS, OHIO, March 10, 1925.

HON. CLARENCE U. AHL, *Prosecuting Attorney, Bucyrus, Ohio.*

DEAR SIR:—This will acknowledge receipt of your letter of recent date, in which you request our opinion upon the following statement of facts:

“Various boards of education of rural school districts of this county, deeming it to be impracticable to change the route traveled by their school conveyances in transporting pupils in the district so that said conveyance would pass within one-half mile from the place where the private driveway from their home intersects the public highway, have entered into an agreement with the parents of said children whereby said board of education pays to such parent sums ranging from five cents per day to seventy-five cents per day for each pupil, in consideration of which the parent agrees to transport the pupil from the home to a point on the public highway where the school conveyance passes.

“Thereupon said pupils board a school conveyance and ride to the school in said district. As a matter of fact, during most of the time the pupils walk from their home to the point nearest where the school conveyance passes and there board the conveyance and are transported to school. One board of education paid the parent seventy-five cents per day for his child during the entire school year just past. The point where the lane from the home of this pupil intersects the public highway is three or four rods over one-half mile from where the school conveyance passes. This child walked the entire distance every day during the last school year, boarded the school conveyance and was conveyed to school and conveyed back to his home in like manner, and during the entire time this parent was paid seventy-five cents per day for said pupil walking the additional three or four rods.

“Query 1. Is it lawful for a board of education to agree to pay and pay a parent to transport his child to school and then have such child conveyed to school by the school conveyance as above set forth?

“Query 2. Is it lawful for a board of education to enter into a contract with a parent under such circumstances whereby said board of education agrees to pay a larger sum than that fixed by law?

“Query 3. Would it be lawful for such board of education to pay a larger sum than fixed by law and then have said pupil ride the school conveyance to and from the school?”

Your statement of facts discloses that various rural boards of education of your county have undertaken to pay to the parents of certain pupils sums of money ranging from five cents per day to seventy-five cents per day per pupil, in accordance with an arrangement with said parents that such payments be made in consideration of the parents inducing their children to walk from their several places of residence to a point on the public highway where the school conveyance passes and receives such children.

This arrangement appears to have been entered into under the guise of an agreement by the parents to transport their children from their several places of residence to a point on the public highway where the school conveyance passes and receives them.

Your statement also discloses that the boards of education in question make the excuse that they have found it impracticable to arrange the routes of the school conveyances in such a way that such conveyances will pass within one-half mile of the residence of the pupils in question.

In giving consideration to your inquiries, attention is first directed to section 7730 of the General Code of Ohio. This section first provides for the suspension, either temporarily or permanently, of any school because of disadvantageous location and then proceeds to make provision with reference to transportation of the pupils residing in such territory, as follows:

"Whenever any school is suspended, the board of education of the district shall at once provide for the assignment of the pupils residing within the territory of the suspended school to such other school or schools as may be named by the said board of education. Upon such suspension the board of education in authority over such village or rural school shall provide for the transportation of all pupils so assigned, who reside in the territory of the suspended school and who live more than two miles by the nearest traveled highway from the school to which they have been assigned, to a public school in the rural or village district or to a public school in another district, except when in the judgment of such board of education confirmed by the judgment of the county board of education such transportation is unnecessary."

The language above quoted, with reference to furnishing transportation of the pupils under the circumstances set forth in the section, is mandatory and appears to need little interpretation. The particular language referred to is as follows:

"Upon such suspension, the board of education in authority over such village or rural school shall provide for the transportation."

The language "shall provide for the transportation" certainly does not permit of an interpretation that would justify a board of education entering into an agreement with the parents of pupils to pay said parents any sum in consideration of said parents inducing, or compelling, their children to walk to a point on the highway where the school conveyance may receive them.

Attention is also directed to sections 7731 and 7731-4, General Code, which read as follows:

"Section 7731. In all city, exempted village, rural and village school districts where resident elementary school pupils live more than two miles from the school to which they are assigned, the board of education shall provide transportation for such pupils to and from such school except when in the judgment of such board of education, confirmed, in the case of a school district of the county school district, by the judgment of the county board of education, or, in the case of a city or exempted village school district, by the judgment of the probate judge, such transportation is unnecessary. The transportation for pupils living less than two miles from the school house by the nearest practicable route for travel accessible to such pupils and the transportation of pupils who are pursuing high school branches shall be optional with the board of education, except as provided in section 7749, General Code.

"When transportation of pupils is provided, the conveyance shall be run on a time schedule that shall be adopted and put in force by the board of education not later than ten days after the beginning of the school term and it must pass within one-half mile of the residence of such pupils or the pri-

vate entrance thereto. When local boards of education neglect or refuse to provide transportation for pupils, the county board of education shall provide such transportation and the cost thereof shall be paid as provided in section 7610-1, General Code."

"Section 7731-4. If a local board deems the transportation of certain children to school by school conveyance impracticable and is unable to secure what is deemed a reasonable offer for the transportation of such children, the local board shall so report to the county board of education. If the county board of education deems such transportation by school conveyance practicable or the offers reasonable, they shall so inform the local board and transportation shall be provided by such local board. If, however, the county board of education agrees with the view of the local board, it shall be deemed compliance with the provisions of section 7730 and section 7731, General Code, by such local board, if such board agrees to pay the parent or other person in charge of the child or children for the transportation of such child or children to school, the following amounts for each day of actual transportation:

"Accurate Days of Attendance Kept by Teacher."

"For one child in family transported not more than three miles, seventy-five cents.

"For one child in family transported more than three and not more than four miles, one dollar.

"For one child in family transported more than four miles, one dollar and fifty cents.

"For each additional child in a family, in every case, twenty-five cents.

"For transportation to school only or from school only one-half of the above amounts.

"It shall be the duty of the teacher or teachers in charge of such children to keep an accurate account of the days they are transported to and from school. A failure of a parent or guardian to arrange to have his child transported to school, or his failure to have the child attend on the grounds that the transportation is not supplied, can not be plead as an excuse for the failure of such parent or guardian to send such child to school or for the failure of the child to attend school."

Under the provisions of the last section, a board of education may discharge the obligation imposed upon it in Sections 7730 and 7731 by entering into an agreement to pay the parent of the child or children, for the transportation of such child or children to school, the amounts indicated in the schedule. However, it will be noted that the language used in Section 7731-4, in fixing the schedule of amounts, is "the following amounts for each day of *actual transportation*." The last paragraph of the section provides that "the teacher shall keep an accurate account of the days such children are transported to and from school."

Therefore, it would seem that the legislature intended to pay only for actual transportation to and from school.

The two sections above quoted are the principal sections concerning the transportation of pupils, and I am unable to find, in either of the sections above referred to or any other sections of the General Code of Ohio, any provision or authority for such a practice as that outlined in your inquiry. It is true that the provisions of Section 7731 of the General Code require when transportation is provided that the conveyance shall be run on a time schedule and must pass within one-half mile of the residences of such pupil or the private entrance thereto; but this section in no way provides, or even implies, that a board of education may pay to the parent any amount to induce

his child or children to travel a greater distance than one-half mile in order to meet the school transportation vehicle.

It will also be noted that the provisions for the payment of the amounts set up in the schedule in said section for the transportation of a child or children, are in lieu of furnishing such transportation by a school conveyance or a school bus, and does not contemplate the payment of such sums in addition to transportation that may be furnished.

A careful reading and analysis of the sections of the General Code above quoted clearly indicate that the boards of education of your county are exceeding their authority in attempting such an arrangement as you have outlined, and I am, therefore, of the opinion that the three questions you present should each be answered in the negative.

Respectfully,

C. C. CRABBE,

Attorney-General.

2275.

APPROVAL, FINAL RESOLUTIONS, ROAD IMPROVEMENTS IN INNOBLE,
TRUMBULL AND BROWN COUNTIES.

COLUMBUS, OHIO, March 11, 1925.

Department of Highways and Public Works, Division of Highways, Columbus, Ohio.

2276.

DISAPPROVAL, BONDS OF WAYNESBURG VILLAGE, STARK COUNTY,
\$10,000.00.

COLUMBUS, OHIO, March 11, 1925.

Re: Bonds of Waynesburg Village, Stark County, \$10,000.00.

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

GENTLEMEN:—An examination of the transcript of the foregoing issue of bonds discloses that these bonds are being issued under the provisions of section 3942, General Code of Ohio, and are being issued for the purpose of improving and extending the waterworks system of the village.

As shown by the affidavits of the publishers, these bonds have been advertised for sale as follows:

One publisher printed the notice of the sale of the bonds on January 15, 22, 29 and on February 5, 1925, giving notice that the bonds were sold on the 9th day of February, 1925. The other publication gave notice of the sale on February 9, 1925, and the affidavit shows that the publications were made for four weeks, beginning on January 18, 1925.

Section 3924 G. C. provides in part as follows:

“Sale of bonds other than to the trustees of the sinking fund of the city