

to list, rather than an assignee within the meaning of the McNeill case, based as it was upon the omission in the statute. It was pointed out that there was no constitutional or common law principle of sufficient force to control the discretion of the legislature in exempting officers of court and persons representing creditors from listing property in their possession for taxation. The conclusion was reached that after the enactment of section 5372-1 assignees and receivers, whether continuing the business under order of court or engaged in winding up and liquidating assets, are required to list for taxation the property in their possession on listing day.

I fully concur in the opinion just described.

Accordingly, it is my opinion that in the case under consideration the receiver is not obliged to list the personal property and other assets in his possession for taxation as of the first day of January, and may lawfully proceed at the present time to make distribution; but should any property remain in his possession or subject to his control as receiver on the day preceding the second Monday of April, it will be his duty at that time to list such property for taxation in the manner pointed out by section 5372-1 G. C.

Respectfully,
JOHN G. PRICE,
Attorney-General.

1033.

BOARD OF EDUCATION—MAY PURCHASE JOURNAL RELATING TO SCHOOL WORK AND PAY FOR SAME OUT OF SCHOOL FUND—IMPLIED POWER—WITHOUT POWER TO PURCHASE FOR INDIVIDUAL MEMBERS.

Under the incidental or implied powers of a board of education it may purchase or subscribe for a journal relating to school board work and pay for the same out of school funds. However, such powers do not permit it to subscribe for such publications for the individual members of the board and such publications should relate to school board work.

COLUMBUS, OHIO, February 27, 1920.

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

GENTLEMEN:—Your communication of recent date is as follows:

“We are in receipt of a communication from the city solicitor of Cincinnati, Ohio, as follows:

“Kindly let me know whether your department has ever passed upon the right of a school board to subscribe for any journal relating to school board work, and pay for the same out of school funds?”

and are respectfully requesting your written opinion in answer to his question.”

There are a number of provisions in the statutes empowering boards of education to establish libraries, and in view of such provisions the question of what are proper purchases for such purposes could easily arise, but it is not believed that your inquiry requires a consideration of said statutes.

The school laws of the state dealing with the powers and obligations of the boards of education with reference to purchases for the benefit of the schools under their supervision are somewhat extensive. However, your question is not what the board

of education may purchase on behalf of the schools, but rather what said board of education may purchase for its own convenience and use and upon this subject the statutes are comparatively silent. Therefore, in the determination of your inquiry it is essential to consider whether or not such a purchase as you describe in your letter comes within the implied powers of said board of education.

Section 4749 G. C. provides:

"The board of education of each school district, organized under the provisions of this title, shall be a body politic and corporate, and, as such, capable of suing and being sued, contracting and being contracted with, acquiring, holding, possessing and disposing of real and personal property, and taking and holding in trust for the use and benefit of such district any grant or devise of land and any donation or bequest of money or other personal property and of exercising such other powers and privileges as are conferred by this title and the laws relating to the public schools of this state."

Section 7690 G. C. provides:

"Each board of education shall have the management and control of all of the public schools of whatever name or character in the district. It may appoint a superintendent of the public schools, truant officers, and janitors and fix their salaries. If deemed essential for the best interests of the schools of the district, under proper rules and regulations, the board may appoint a superintendent of buildings, and such other employes as it deems necessary, and fix their salaries. Each board shall fix the salaries of all teachers, which may be increased, but not diminished during the term for which the appointment is made. Teachers must be paid for all time lost when the schools in which they are employed are closed owing to an epidemic or other public calamity."

There are various other sections of the General Code, which will only be referred to generally, empowering boards of education to erect school buildings, issue bonds, levy taxes, appoint physicians and nurses, and to provide for the convenience and well-fare of the schools; all of which cast upon said boards of education weighty responsibilities.

A search of the statutes discloses that the express powers granted make no provision for a board of education to furnish itself with an office or to provide equipment, stationery and supplies for such purposes. However, it certainly will not be contended that such boards have no such authority by implication. Boards of education have such powers as are expressly granted or clearly implied. *Board of Education vs. Best*, 52 O. S., 152.

By no logical reasoning could the conclusion be reached that the legislature intended to place the responsibilities, which in many cases involve the expenditure of thousands of dollars, upon a board of education, as it has expressly done, and deny it the right to expend comparatively insignificant sums incidental to its carrying into effect the express provisions granted.

Coming directly to your inquiry, it is believed that a journal such as you mention may be of material benefit to a board of education in connection with its duties. In view of the frequent undertakings of a board of education in pursuance of the provisions of the statutes, it is believed that in this age of advancement such a board should have whatever advantages it might be able to secure by reason of a current journal devoted to a discussion of its problems. It is further believed that a proper purchase in this connection can logically be regarded as in the class with incidental office supplies

and equipment and within the implied powers of said board. However, it is not believed that a board would be permitted to expend funds for a subscription for the individual members of the board. A proper subscription undoubtedly would be limited to one, which publication would be the property of said board to be used by its members. Furthermore, if the character of such a journal were such as to have no application to the work of such a board, it follows that it could not legally make such a purchase. On the other hand, it is believed, if the journal is devoted to subjects of general or special interest in connection with the duties of a board of education, by implication the law will authorize such a purchase or subscription, the payment for which may be made out of the school funds.

Very respectfully,
 JOHN G. PRICE,
Attorney-General.

1034.

MUNICIPAL CORPORATION—MAYOR—PROHIBITED—FROM DESTROYING PAPERS DULY FILED IN CASE—MAYOR NOT REQUIRED BY STATUTE TO GIVE RECEIPTS—IN CRIMINAL CASE ESSENTIAL THAT AN AFFIDAVIT OR COMPLAINT BE FILED CHARGING AN OFFENSE AGAINST ORDINANCE OR STATUTE BEFORE WARRANT MAY ISSUE.

1. *Under the provisions of section 13088 G. C. a mayor is prohibited from abstracting or destroying papers duly filed in a case properly brought before him.*
2. *There is no provision of law requiring a mayor to give receipts.*
3. *In a criminal case it is essential that an affidavit or complaint be filed charging the accused with an offense against the ordinances of the city or the statutes of the state before a mayor may issue a warrant or hear and determine said case.*

COLUMBUS, OHIO, February 27, 1920.

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

GENTLEMEN:—In your communication of recent date you submit for an opinion the following questions:

- “1. Is it obligatory for the mayor to keep all the papers and records relating to a case on file as public records?
2. Is it mandatory that he give receipt?
3. Is it not mandatory that affidavit be filed in cases coming before the mayor?”

Section 4550 G. C. provides:

“He shall keep a docket, and shall be entitled to receive the same fees allowed justices of the peace for similar services. He shall keep an office at a convenient place in the corporation, to be provided by the council, and shall be furnished by the council with the corporate seal of the corporation, in the center of which shall be the words, ‘Mayor of the city of -----,’ ‘Mayor of the village of -----,’ as the case may be.”

An examination of the statutes does not disclose any provisions other than