

2815.

APPROVAL, CERTIFICATE OF AMENDMENT TO ARTICLES OF INCORPORATION, THE LUMBERMAN'S MUTUAL INSURANCE COMPANY OF MANSFIELD, OHIO.

COLUMBUS, OHIO, January 24, 1922.

HON. HARVEY C. SMITH, *Secretary of State, Columbus, Ohio.*

DEAR SIR:—The certificate of amendment to the articles of incorporation of the Lumbermen's Mutual Insurance Company, of Mansfield, Ohio, is herewith returned to you with my approval endorsed thereon.

I am also returning herewith the copy of the original articles of incorporation of the company.

Respectfully,
JOHN G. PRICE,
Attorney-General.

2816.

BOARD OF EDUCATION—NOT AUTHORIZED TO PROVIDE ACCIDENT INSURANCE AGAINST PERSONAL INJURY TO PUPILS OF SCHOOLS
SEE SECTION 7620 G. C.

Section 7620 G. C. does not authorize boards of education to provide accident insurance covering indemnity against personal accident or injury to the pupils of the schools under their jurisdiction.

COLUMBUS, OHIO, January 24, 1922.

HON. VERNON M. RIEGEL, *Superintendent of Public Instruction, as Director of Education, Columbus, Ohio.*

DEAR SIR:—Receipt is acknowledged of your letter of recent date reading as follows:

“Your opinion is requested on the following point:
May a board of education expend money for the purchase of transportation liability covering school vans or similar conveyances used for the transportation of children to and from school?”

Answer to the question submitted by your inquiry has been delayed pursuant to a request by this department for additional information relative to the nature of the transportation liability contemplated. From recent conference however, with Mr. W. B. Bliss of your department, it has been ascertained that the transportation liability indicated is accident insurance, covering indemnity against accident or injury to pupils being transported to and from school in vans or similar conveyances employed by the board of education for that purpose.

In the first instance it may be stated there is no special statute of the General Code, authorizing the exercise by a board of education of such a power, and it is concluded if the same exists it must be found from an implied construction given those provisions of law conferring upon boards of education the powers to contract

generally. Of these sections it is thought that section 7620 G. C. is the broadest in general terms as to powers conferred upon boards of education, and may be said to be the only particular section applicable or pertinent to your question. The section is as follows:

“The board of education of a district may build, enlarge, repair and furnish the necessary school houses, purchase or lease sites therefor, or rights of way thereto, or purchase or lease real estate to be used as playgrounds for children or rent suitable schoolrooms, either within or without the district, and provide the necessary apparatus and make all other necessary provisions for the schools under its control. It also shall provide fuel for schools, build and keep in good repair fences enclosing such school houses, when deemed desirable plant shade and ornamental trees on the school grounds, and make all other provisions necessary for the convenience and prosperity of the schools within the subdistricts.”

It is true this section confers very broad powers upon boards of education, nevertheless it is not believed that the provisions of the same may be said to be broad enough to cover authority to purchase or provide accident insurance as an indemnity against personal accident or injury sustained by pupils of the schools. While it is thought to be the duty generally of a board of education to use all means within its power to safeguard the lives of the pupils being transported by school conveyances, and to provide for their safety in any manner or by any method reasonably employed under the circumstances, yet it is not believed that such an incidental power may be extended to cover the provision of accident insurance, since such a contract is thought to be a matter entirely foreign to school purposes and one over which a board of education has no authority or control.

In case No. 16539, decided by the Supreme Court November 22, 1921, it was held that boards of education and other similar governmental bodies are limited in the exercise of their powers to such as are clearly and distinctly granted, and if such authority is of doubtful import, the doubt is resolved against its exercise in all cases where a financial obligation is sought to be imposed upon the county.

Upon such consideration, therefore, you are advised that in the opinion of this department boards of education are unauthorized by law to provide accident insurance covering indemnity against personal accident or injury to the pupils of the schools under their jurisdiction.

Respectfully,
JOHN G. PRICE,
Attorney-General.

2817.

SCHOOLS—TUITION—THE PHRASE “ACTUAL RESIDENTS OF THE DISTRICT” IN SECTION 7681 G. C. DEFINED—REQUIRE ACTUAL RESIDENCE IN FACT OR PHYSICAL PRESENCE AND DWELLING OF PARENT OR PERSON STANDING IN *LOCO PARENTIS* TO PUPIL—SCHOOL AND VOTING RESIDENCE ARE NOT IDENTICAL.

1. *The phrase “actual residents of the district” occurring within the provisions of section 7681 G. C. requires an actual residence in fact, or the physical presence*