

4040.

APPROVAL, NOTES OF BELLE CENTER VILLAGE SCHOOL DISTRICT, LOGAN COUNTY, OHIO—\$4,800.00

COLUMBUS, OHIO, February 8, 1932.

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

4041.

APPROVAL, NOTES OF SPRINGFIELD TOWNSHIP RURAL SCHOOL DISTRICT, SUMMIT COUNTY, OHIO—\$15,000.00.

COLUMBUS, OHIO, February 8, 1932.

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

4042.

APPROVAL, NOTES OF EVENDALE RURAL SCHOOL DISTRICT, HAMILTON COUNTY, OHIO—\$45,000.00.

COLUMBUS, OHIO, February 8, 1932.

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

4043.

BOARD OF EDUCATION—MAY NOT EXPEND SCHOOL FUNDS FOR PUBLICATION OF DIRECTORY OF TEACHERS.

SYLLABUS:

A county board of education is without authority to pay from school funds for the publication of a directory of teachers within the school district.

COLUMBUS, OHIO, February 8, 1932.

HON. JOHN W. BOLIN, *Prosecuting Attorney, Athens, Ohio.*

DEAR SIR:—I am in receipt of your request for my opinion with reference to the following:

“Mr. M., a high school teacher in the Jacksonville-Trimble High School teaches printing. Mr. M. owns the printing outfit and operates it at the Jacksonville-Trimble High School as laboratory work. The high school pupils assist him in various forms of printing.

At the meeting of the county board of education January 1, the following resolution was passed:

‘Mr. M. has been publishing a directory of the teachers of Athens

County for five years, furnishing paper and labor. Is it legal for the Athens County Board of Education to pay Mr. M. for the publication of said directory.'"

There is no provision of law requiring a teacher in the manual training department of the public schools or any other department to furnish apparatus with which to conduct the courses in said school. I assume that the furnishing by Mr. M. of a printing outfit for the purpose of teaching printing in the school in question is purely voluntary on his part. At least he would not have been compelled to furnish this apparatus, and if he did so he would be regarded as having done so as a part of his contract for teaching. No obligation to pay him for the use of this printing outfit, either legal or moral, would arise as against the board of education, and no authority would exist for the payment by the board of education for the use of such outfit, either as a legal or moral obligation, in the absence of a contract to that effect made prior to his furnishing the use of the outfit.

Any payments made at this time for the use of this printing outfit, in the absence of a prior contract therefor, is unauthorized and unlawful.

Moreover, no authority exists for the payment by a county board of education for the publication of a directory of teachers within the county school district. It is well settled that statutory boards such as county boards of education may exercise only such powers as the legislature has granted in express words or those which are necessarily or fairly implied in, or incident to powers expressly granted or those essential to the declared objects and purposes. *Schwing vs. McClure*, 120 O. S., 355; *State ex rel. Locher vs. Menning*, 95 O. S., 97. Especially is this true when the expenditure of public moneys is involved. It has been held by the Supreme Court of Ohio in the case of *State, ex rel. Bentley vs. Pierce, Auditor*, 96 O. S., 44, that:

"In case of doubt as to the right of any administrative board to expend public moneys under a legislative grant, such doubt must be resolved in favor of the public and against the grant of power."

I find no express grant of power for a county board of education to pay for the printing and publication of a directory of teachers for the county school district within which the board functions, nor may it be said in my opinion, that this power is necessarily or fairly employed in, or incident to, any express power granted to said board nor is it essential to the declared objects and purposes of the board. I am therefore of the opinion, in specific answer to your question, that it is not lawful for the Athens County Board of Education to pay Mr. M. for the publication of a directory of teachers of the Athens County School District.

Respectfully,
GILBERT BETTMAN,
Attorney General.