

lic benefits if it were not within their power to cancel or revoke the easement at their pleasure upon reasonable notice.

Section 3281 of the General Code of Ohio, quoted above, requires advertising for three weeks before the sale of lands not needed for county purposes may be made. Your second question refers to the necessity of this procedure in granting easements. The *Minimax Gas* case, *supra*, held this procedure unnecessary in the granting of a lease and I therefore see no reason for advertisement in the granting of an easement. A right of way of this nature would be desirable only to the person who without it would have no access to his property and any advertising for bids would in all probability bring only one bid and that from the party with whom the trustees are now dickering as he would be the only one interested in obtaining such a right of way.

In specific answer to your questions, it is therefore my opinion that:

1. Township trustees may grant a right of way over township lands providing they reserve the right to revoke the same when in their opinion the land should be used for other purposes or sold.

2. In granting a right of way over township lands, it is not necessary to advertise and conduct an auction as provided in section 3281, General Code, for the sale of such lands.

Respectfully,

JOHN W. BRICKER,
Attorney General.

4313.

BOARD OF EDUCATION—LIMITED BY SEC. 7704 G. C. FOR EXPENSES IN
PROMOTING SCHOOLS' WELFARE OUTSIDE DISTRICT.

SYLLABUS:

In city school districts, the board of education is limited in the amount that it may allow to its members or the official representatives of the board, for expenses when sent out of the district for the purpose of promoting the welfare of the schools under the charge of the board, to the amount of the service fund established in pursuance of Section 7704 of the General Code of Ohio.

COLUMBUS, OHIO, June 3, 1935.

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

GENTLEMEN:—This will acknowledge receipt of your request for my opinion, which reads as follows:

"Referring to Opinion No. 1747, rendered by your predecessor, to this department under date of April 8, 1930:

In this opinion it is held that a board of education may legally pay the personal traveling expenses of its clerk, when, under the direction of the board, he travels to Columbus to confer with the Department of Education with reference to the state equalization fund, when such mission is reasonably necessary in view of the facts and circumstances.

Section 7704, General Code, provides for the establishment of a Service

Fund in city school districts, limiting the amount to five cents for each child enrolled. It further provides that the fund shall be used only in paying the expenses of its members actually incurred in the performance of their duties, or of their official representative when sent out of the city school district for the purpose of promoting the welfare of the schools under their charge.

QUESTION: In city districts may the board of education allow the expenses of its clerk in addition to the amount of the service fund, when such clerk is directed by the board to go to Columbus in connection with the state equalization fund, or for any other purpose connected with the welfare of the schools, or his expenses in traveling to the county seat in connection with the budget, when so directed by the board?"

In Opinion No. 1747, rendered by my predecessor, to which reference is made by you, which opinion will be found in the reported Opinions of the Attorney General for 1930, Vol. I, page 587, it is held as stated in the syllabus:

"A board of education may legally pay personal traveling expenses of its clerk when under the direction of said board he travels to Columbus to confer with the Department of Education with reference to the state equalization fund, when such mission is reasonably necessary in view of the facts and circumstances."

The above opinion dealt with the subject generally, and its conclusion, in the absence of statute, so far as the general principle involved is concerned, applies to all school districts. I am in agreement with the principle so stated. The inquiry upon which the opinion was based, made no mention of particular classes of districts, and no consideration was given to the fact that in city school districts the amount of expenses that may be allowed in the aggregate, for any purpose, to members of the board of education and its official representatives, is limited by statute. Section 7704, General Code, which applies to city school districts only, reads as follows:

"On the third Monday of every January or on the Monday preceding the close of school each year, the clerk of the board of education of a city school district shall certify to the board of education of which he is clerk, the number of pupils enrolled in the public schools of that district, whereupon the board of such city school district may by resolution set aside from the contingent fund a sum not to exceed five cents for each child so enrolled, such sum of money to be known as the 'service fund' to be used only in paying the expenses of such members actually incurred in the performance of their duties, or of their official representatives when sent out of the city school district for the purpose of promoting the welfare of the schools under their charge; such payments to be made only on statement of the several members, of their official representatives furnished at the last meeting held in each month."

In view of the above statute it is clear that boards of education in city school districts are limited in the amount that may be allowed in the aggregate, for expenses of members of the board and their official representatives in the performance of their official duties or the promotion of the welfare of the schools under their charge, to the amount of the service fund established in pursuance of the said statute. *Higgins vs. Commissioners of Logan county*, 62 O. S., 621.

I am therefore of the opinion that in city school districts, the board of education is limited in the amount that it may allow to its members or the official representatives of the board, for expenses when sent out of the district for the purpose of promoting the welfare of the schools under the charge of the board, to the amount of the service fund established in pursuance of Section 7704 of the General Code of Ohio.

Respectfully,
 JOHN W. BRICKER,
Attorney General.

4314.

CONSTITUTIONAL PROVISION—H. B. #227, 91ST GENERAL ASSEMBLY DISCUSSED.

SYLLABUS:

Constitutionality of House Bill No. 227 of 91st General Assembly discussed.

COLUMBUS, OHIO, June 3, 1935.

HON. MARTIN L. DAVEY, *Governor of Ohio, Columbus, Ohio.*

MY DEAR GOVERNOR:—I acknowledge receipt of your communication in which you ask for my opinion as to the constitutionality of House Bill No. 227 passed by the 91st General Assembly. This is an act "To provide for the acquisition, improvement, operation and maintenance of bridges; to pay the cost of such bridges and improvements thereon by the issuance of bridge revenue bonds; providing for the collection of bridge tolls for the payment of such bonds and creating bridge commissions."

Section 1 of the act reads as follows:

"The state of Ohio and any county and city in the state is hereby authorized and empowered to acquire by purchase or condemnation and to improve, operate and maintain bridges over rivers and navigable waters which are within the state, or within such county or city, or which form a boundary of such county or city, notwithstanding the waters of such navigable water may not at all times extend to or reach said boundary line, whenever the bridge or any part thereof or the approaches thereto will extend within the boundary of such county or city, and, to pay the costs of such acquisition and of such improvement, to issue bridge revenue bonds of the state, or of such county or city, as hereinafter provided."

Section 2 contains certain definitions. Section 3 creates a state bridge commission of three members, provides for the terms of the members, their qualifications, etc. Section 4 reads as follows:

"The county commissioners of any county, or the legislative authority of any city, desiring to take advantage of the provisions of this act, shall first pass a resolution declaring that the acquisition of such bridge, or the partial acquisition and partial construction, together with adequate repairs and rehabilitation if such bridge is already completed, or adequate completion of con-