

2352.

APPROVAL, BONDS OF CITY OF SANDUSKY, ERIE COUNTY, OHIO—
\$37,300.00.

COLUMBUS, OHIO, September 16, 1930.

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

2353.

SALE OF GRAVEL—NO AUTHORITY FOR COUNTY COMMISSIONERS
OR COUNTY SURVEYOR TO SELL FROM COUNTY PITS.

SYLLABUS:

Neither the county commissioners nor the county surveyor may legally sell gravel from the county pits to township trustees or contractors.

COLUMBUS, OHIO, September 17, 1930.

HON. DANIEL P. BINNING, *Prosecuting Attorney, Coshocton, Ohio.*

DEAR SIR:—Acknowledgment is made of your recent communication which reads:

“The county is the owner of two or three gravel pits and the machinery used in crushing and screening the gravel and also employs men to operate these plants for the maintenance of county roads as provided by the General Code.

There are times when it is more convenient for the trustees of the township and contractors to obtain gravel from the county gravel pits and in some instances the gravel furnished by the county pits is superior in quality to the gravel that can be obtained in other neighboring pits.

The question involved is this: Whether the county commissioners or the county surveyor can sell to the township trustees or contractors doing county or township road work, crushed or screened gravel from the county pits.”

In considering your question, we shall start with the major premise that under the law of Ohio, a board such as that of the county commissioners, may exercise only such powers as are expressly granted by the statutes, and such incidental powers as are necessary to carry into effect the express powers granted.

While the county commissioners may purchase machinery and own and operate gravel plants in connection with the maintenance of county roads, there seems to be no authority to authorize such county commissioners to enter the field of commerce in connection with the sale of gravel which the county produces. Of course, as you state, such power might under certain conditions, seem desirable, yet such action, in my opinion, would be going beyond any power that now exists.

Section 2447, General Code, authorizes the county commissioners to sell real estate not needed for public use, which indicates that when the Legislature intends the power of selling property to be exercised it expressly so states.

The statutes contain no provisions which, in my opinion, either expressly or by implication would authorize such an enterprise to be undertaken by the county commissioners or the surveyor.

Without further discussion, in answer to your inquiry, it is my opinion that neither the county commissioners nor the county surveyor may legally sell gravel from the county pits to township trustees or contractors.

Respectfully,
GILBERT BETTMAN,
Attorney General.

2354.

INSURANCE—ADMISSION TO DO BUSINESS IN OHIO—FOREIGN CASUALTY COMPANY MAY NOT BE DENIED ADMISSION ACCOUNT OF ITS STOCK SET-UP IN ABSENCE OF EXPRESS STATUTORY INHIBITION.

SYLLABUS:

The Superintendent of Insurance is without authority to refuse to admit a foreign casualty insurance company to transact its appropriate business in Ohio solely on the ground that the capital stock of such foreign casualty insurance company is composed of more than one class of shares, of which classes of shares a minority class has the sole voting power and, therefore, the control of the company.

COLUMBUS, OHIO, September 17, 1930.

HON. C. S. YOUNGER, *Superintendent of Insurance, Columbus, Ohio.*

DEAR SIR:—This will acknowledge the receipt of your communication in which you ask my opinion as follows:

“I respectfully request your opinion as to whether or not a foreign insurance company may be admitted to Ohio to transact its appropriate business as a casualty insurance company, wherein the capital stock of said company consists of 20,000 shares of the par value of \$10.00 each, of which fifteen thousand shares are known as Class ‘A’—Non-voting stock, and five thousand shares are known as Class ‘B’—Voting stock.

The Class ‘B’ stock composed of \$50,000 worth of the capital stock would thus control the \$200,000 corporation. It is a preferred stock in that respect at least, although I am informed it is not preferred as to dividends.

We would not permit a set-up of this kind for a domestic insurance company. The question arises whether we are obliged to admit a company whose stock set-up we would not permit in a domestic company, of the same character.”

The question upon which you desire my opinion is whether the Superintendent of Insurance of Ohio is authorized to refuse to admit a foreign insurance company into the State of Ohio for the purpose of transacting a casualty insurance business for the reason that the capital stock of the company is composed of two classes of shares, of which one class, containing a minority of the total number of shares of