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1. TOWNSHIP TRUSTEES—AUTHORIZED TO GUARD AGAINST OCCURRENCE OF FIRES—FURTHER AUTHORIZED TO PROTECT PROPERTY AND LIVES AGAINST DAMAGES AND ACCIDENTS—MAY ACQUIRE AND OPERATE EMERGENCY VEHICLES OR “RESCUE CARS”—SECTION 3298-54 GC.
2. TOWNSHIP TRUSTEES—MAY ENTER INTO AGREEMENT WITH VOLUNTEER FIRE COMPANY TO OPERATE ANY SUCH EQUIPMENT AS TOWNSHIP AUTHORIZED TO OPERATE—PROTECTION AGAINST FIRES, DAMAGES AND ACCIDENTS.

SYLLABUS:

1. Under the provisions of Section 3298-54, General Code, township trustees, in addition to being authorized to guard against the occurrence of fires, are further authorized to protect property and lives against damages and accidents; and under such authority may acquire and operate emergency vehicles or “rescue cars” for such purposes.

2. Township trustees may enter into an agreement with a volunteer fire company for the operation of any such equipment as the township itself is authorized to operate, designed to protect against fires, damages and accidents.

Columbus, Ohio, March 26, 1953

Hon. Harry Friberg, Prosecuting Attorney
Lucas County, Toledo, Ohio

Dear Sir:

I have before me your request for my opinion which reads as follows:

“For many years there has been discussed in Lucas County (and no doubt in other parts of the state) the right of Volunteer Fire Departments to use township equipment for the purpose of driving to the scene of accidents and assisting injured persons in cases that did not involve fires. It has always been my opinion that such use of township property was improper. Since the amendment of the first paragraph of General Code 3298-54 it has been contended by many volunteer fire officials that such service is now authorized.

“In order to clear up any doubt, will you kindly give me your opinion on the following:

"1. May volunteer fire departments lawfully use township 'rescue cars' to drive to the scene of highway accidents in order to assist injured persons where no fire is involved?"

"2. If the answer to question No. 1 is in the affirmative, may injured persons be lawfully driven to hospitals in township owned rescue cars?"

The portion of Section 3298-54, General Code, material to this opinion, reads as follows:

"Township trustees may establish all necessary regulations to guard against the occurrence of fires, *protect the property and lives of the citizens against damages and accidents* and may, with the approval of the specifications by the county prosecuting attorney, *purchase* or otherwise provide such fire apparatus, or mechanical resuscitators, *or other equipment*, appliances, materials, fire hydrants and such water supply for fire fighting purposes as may seem to the trustees to be advisable, in which event they shall provide for the care and maintenance thereof, and, for such purposes, may purchase, lease or construct and maintain necessary buildings * * *. Such township trustees may employ one or more persons to maintain and operate fire fighting equipment; *or they may enter into an agreement with a volunteer fire company for the use and operation of such equipment.*" (Emphasis added.)

Does this statute permit volunteer fire departments to use township "rescue cars" to drive to the scenes of highway accidents in order to assist injured persons where no fire is involved?

Undoubtedly, the statute is *primarily* concerned with the guarding against the occurrence of fires. Yet it must be conceded that the township trustees may establish regulations to "protect the property and lives of the citizens against damages and accidents," and "damages and accidents" are not limited to those caused by fire.

Prior to the enactment of Section 3298-54, General Code, in its *present* form in 1951, 124 Ohio Laws, 397, it commenced as follows:

"Township trustees may establish all necessary regulations to guard against the occurrence of fires, protect the property and lives of the citizens against damages and accidents *resulting therefrom* * * *." 108 Ohio Laws, Pt. II, 1152. (Emphasis added.)

It will be observed that the township trustees under the earlier version of the statute had no opportunity to establish regulations except in so far as the damages or accidents result from fire. The statute reads this way

from 1920 to 1951 when, as already noted, the words "resulting therefrom" were dropped.

In more recent years the activities of fire departments and fire companies have expanded. Under the 1920 statute township trustees were authorized to purchase "such *fire* apparatus and appliances as may seem * * * advisable." See 108 Ohio Laws, Pt. II, 1152.

The statute in 1951 authorizes purchase of "such fire apparatus or mechanical resuscitators, or other equipment, appliances, materials, fire hydrants and such water supply for fire fighting purposes as may seem * * * advisable." Fire departments today, through their emergency squads, attend to a great variety of mishaps. A record of an average day's "runs" may well include a rescue from drowning, resuscitation of persons overcome by gas fumes, aiding persons who have fallen from ladders, etc. In short, I am of the opinion that township trustees have authority, by and with the approval of the prosecuting attorney, to purchase "rescue cars" for the township. If it be objected that "rescue cars" are not specifically mentioned in the statute, it might be noted that "fire engines" are not specified either, and yet it has never been questioned that the township trustees might purchase fire trucks under Section 3298-54, General Code. It is true that fire trucks are used to fight fires, while rescue cars with their pulmotors and other equipment are not necessarily designed for fighting fires, but instead are most often used in instances of emergencies not involving fires.

A strictly narrow and literal interpretation of Section 3298-54, General Code, might exclude the purchase of "rescue cars" as not falling within the definition of "fire apparatus * * * or other equipment * * * for fire fighting purposes." Yet the legislature was undoubtedly concerned with apparatus or equipment for *emergency* purposes, i.e., instances of injuries and accidents suffered by citizens. The legislature meant to authorize the purchase of more than fire trucks and fire hydrants, as is manifest from the inclusion of mechanical resuscitators in the enumeration.

If township trustees may purchase "rescue cars" for the township, it would seem to follow that they may enter into an agreement with a volunteer fire company for the use and operation of the "rescue cars" which would include driving the cars to the scenes of highway accidents in order to assist injured persons where no fire is involved.

The trustees are authorized by Section 3298-54, General Code, to employ one or more persons to maintain and operate "fire fighting equipment" or they may enter into an agreement with the volunteer fire company for the operation of such equipment. The meaning of the term "fire fighting equipment" is more readily ascertained by reading it with the other portions of the statute which comprise a unified scheme or purpose. The sentence of the statute immediately preceding the term and quoted earlier in this opinion, after authorizing township trustees to establish necessary regulations to guard against fires and protect the property and lives of the citizens against accidents, further authorizes the purchase of "fire apparatus, or mechanical resuscitators, or other equipment." The purpose of Section 3298-54, General Code, being to protect the citizenry against fires and accidents, and the township trustees having been authorized to implement this purpose by purchasing the equipment they deem advisable, it would appear that the trustees may enter into an agreement with a volunteer fire company to operate any or all of this equipment.

Thus, the term "fire fighting equipment" as used in that portion of the statute pertaining to an agreement with a volunteer fire company takes on a more liberal or enlarged meaning than that usually accorded the term when it stands alone and isolated from any context such as is present in the instant case.

It has been the modern trend to give legislation enacted for the public safety a liberal interpretation in favor of its objectives. See Sutherland, *Statutory Construction*, 3rd Ed., Section 7204.

In Opinion No. 92, *Informal Opinions of the Attorney General for 1946*, page 214, it was held that township trustees may purchase and maintain an inhalator and permit it to be operated by a township volunteer fire company under Section 3298-54, General Code, as it read at that time. In 1946 the statute did not even contain a reference to mechanical resuscitators, which are for all intents and purposes synonymous with pulmotors or inhalators which mean oxygen tanks used to pump oxygen into the lungs for resuscitation.

It was stressed in the 1946 opinion that Section 3298-54, General Code, is not confined to protecting property, but also extends to protecting the lives of citizens against damages and accidents "resulting from fires."

Since 1946, as already mentioned, the legislature saw fit to amend the statute by removing the words "resulting therefrom" which referred to accidents caused by fire, thus opening the door to protecting the lives of citizens against all kinds of accidents.

As to your second question, I fail to see any legal distinction to be drawn between driving the "rescue car" to the scene of the highway accident in order to assist injured persons where no fire is involved and driving the injured persons to hospitals in the "rescue car."

In conclusion, it is my opinion that :

1. Under the provisions of Section 3298-54, General Code, township trustees, in addition to being authorized to guard against the occurrence of fires, are further authorized to protect property and lives against damages and accidents; and under such authority may acquire and operate emergency vehicles or "rescue cars" for such purposes.

2. Township trustees may enter into an agreement with a volunteer fire company for the operation of any such equipment as the township itself is authorized to operate, designed to protect against fires, damages and accidents.

Respectfully,

C. WILLIAM O'NEILL
Attorney General