

In an opinion of the Attorney General, reported in the Annual Report of the Attorney General for 1914, Vol. I, page 862, it was held:

“When a pupil lives more than one and one-half miles from the school to which he is assigned and has been attending a nearer school in another township, when such other township centralizes its schools, and thus makes the centralized school further than the school to which he has been assigned, the board of education of his township cannot be compelled to pay tuition to the centralized school under the provisions of Section 7735, General Code.”

Again, in an opinion of the Attorney General, reported in the Opinions of the Attorney General for 1918, at page 1157, it was held:

“Where a pupil lives more than one and one-half miles from the school to which he has been assigned in his own district, but attends school in another district, which is farther from the residence of such pupil than the school in his own district, the board of education of such district where such pupil attends school cannot collect tuition from the board of education of the district where the pupil resides.”

It follows from the foregoing authorities that, when an elementary school pupil resides more than one and one-half miles from the school to which he has been assigned in his own district, and there is no other school in his own district which is nearer to his residence than the school to which he has been assigned, he may attend a nearer school in another district, and the board of education of the district where he resides must pay his tuition in the school which he attends without an agreement to that effect; but if he attends a school in another district which is farther from his residence than the school to which he is assigned, or farther from any other school in his own district, the board of education of the district where he resides is not liable for his tuition in the other school.

I am therefore of the opinion, in specific answer to your question, that the Allen Township School Board cannot be required to pay the tuition of the children of Mr. ----- to the Ross Township Board of Education.

Respectfully,

EDWARD C. TURNER,
Attorney General.

2748.

CANAL LANDS—RELINQUISHMENT OF PORTION OF MIAMI AND ERIE
CANAL TO CITY OF CINCINNATI—SUPERINTENDENT OF PUBLIC
WORKS TO SIGN DEED.

SYLLABUS:

The Superintendent of Public Works of Ohio is the proper officer to execute official documents on behalf of the state in connection with the relinquishment of certain surplus Miami & Erie canal lands by the city of Cincinnati to the State of Ohio, under authority of Amended Senate Bill No. 123 of the 87th General Assembly (112 O. L. p. 210).

COLUMBUS, OHIO, October 17, 1928.

HON. RICHARD T. WISDA, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—This will acknowledge receipt of your letter of October 9, 1928, as follows:

“The question has arisen as to the proper officer to sign the official communications addressed to the City of Cincinnati, in regard to the relinquishment of surplus Miami and Erie Canal lands that are to be turned back to the State of Ohio.

Kindly advise me whether they shall be signed by Mr. Kirk, as ‘Director of Highways’ or by myself as ‘Superintendent of Public Works of Ohio’, as Director thereof, or to avoid any conflict, shall both sign the communication.”

The act providing for the relinquishment of these canal lands is found in 112 O. L. 210, and throughout the act the officer of the state authorized therein to represent the state is designated as “the director of highways and superintendent of public works of the State of Ohio.” At the time the act was passed there was one administrative department known as the Department of Highways and Public Works. The same Legislature, however, in the Norton-Edwards Act (112 O. L., pp. 430 et seq.), amended Section 154-3 of the Code so as to create the division into separate departments, making a department of public works and a department of highways. That section is in part as follows:

“The following administrative departments are created:
* * * * *

The department of public works, which shall be administered by the superintendent of public works as director thereof,

The department of highways, which shall be administered by the director of highways, hereby created;
* * * * *

The director of each department shall, subject to the provisions of this act, exercise the powers and perform the duties vested by law in such department.”

Section 154-40 was also amended and, as so amended, reads in part:

“The department of public works shall have all powers and perform all duties vested by law in the superintendent of public works and the state building commission. Wherever powers are conferred or duties imposed upon any such department, offices or officers, such powers and duties shall, except as herein provided, be construed as vested in the department of public works.

In addition to the powers so transferred to it, the department of public works shall have the following powers: * * *

(5) To purchase all real estate required by the state government, or any department, office or institution thereof; in the exercise of which power such department shall have authority to exercise the power of eminent domain, in the manner provided by law for the exercise of such power by the superintendent of public works in the appropriation of property for the public works of Ohio, as heretofore defined.

* * * * *

(8) To procure, by lease, storage accommodations for the state government, or any department, office or institution thereof.

(9) To lease unproductive and unused lands or other property under the control of the state government, or any department, office or institution thereof, excepting school and ministerial lands.

* * * * *

(12) To exercise general custodial care of all real property of the state.

Nothing in this section or in Sections 154-37 or 154-41 of the General Code shall interfere with the power of the adjutant general to purchase military supplies, or with the custody by the adjutant general of property leased, purchased or constructed by the state and used for military purposes, or with the functions of the adjutant general as director of state armories, or with the director of highways in preparing plans and specifications for and constructing such buildings as he may require in the administration of his department.

* * *

I have no hesitancy in saying it was the intent and purpose of the Legislature to repose in the Department of Public Works all those functions with respect to the custody and control of the real property of the state, including the canal lands. In view of the fact that the creation of the two departments was subsequent to the special act authorizing the relinquishment of the canal lands, I believe that the authority to perform on behalf of the state those functions enumerated in the special act was intended to be vested by the Norton-Edwards act in the Superintendent of Public Works, as Director of the Department of Public Works, since the functions therein enumerated pertain peculiarly to subjects over which the Department of Public Works has jurisdiction.

You are accordingly advised that official communications addressed to the City of Cincinnati, with respect to the relinquishment of the surplus Miami and Erie canal lands should be signed by you as Superintendent of Public Works of Ohio, as Director of the Department of Public Works.

Respectfully,
EDWARD C. TURNER,
Attorney General.

2749.

DEPOSITARY BOND—MAY BE GIVEN BY BANK IN ADDITION TO OTHER SECURITIES AS SECURITY FOR FUNDS OF BOARD OF EDUCATION.

SYLLABUS:

School district depository banks are authorized under the provisions of Sections 7605 and 7607, General Code, as amended by the 87th General Assembly, to secure the deposit of school funds therein by the giving of a good and sufficient bond signed by either a surety company or private persons, or the deposit of the classes of securities enumerated in the said statutes.

COLUMBUS, OHIO, October 17, 1928.

HON. DEANE M. RICHMOND, *Prosecuting Attorney, London, Ohio.*

DEAR SIR:—I am in receipt of your request for my opinion which reads as follows:

“I respectfully request your opinion upon the following questions:

The last Legislature amended G. C. 7605 to read in part as follows:

‘Such bank or banks shall give a good and sufficient bond, or other interest bearing obligations of the United States or those for the payment of