nance 1929-148. Ordinance 1929-168 authorizes notes in the amount of $350,000.00 and corrects other errors appearing in Ordinance 1929-148. As previously indicated, I am unable to escape the conclusion that there may be a serious question raised as to the validity of Ordinance 1929-148 on account of its not having been passed in strict Compliance with the provisions of Section 4224, General Code.

I am not unmindful of the general rule that a legislative body may, in the absence of specific rules governing such matters, reconsider any action within a reasonable time, or, as stated in the case of *Adkins et al* vs. *City of Toledo, et al.,* 6 C. C. (N. S.) at p. 441-442, "before rights have vested in pursuance of the vote taken, or before the status quo is changed * * * . " It must, however, be borne in mind that the provisions of Section 4224, relative to reading an ordinance on three different days, are mandatory and must be strictly complied with. *Vinton* vs. *James,* 108 O. S. 220; *Costakis* vs. *Yorkville,* 109 O. S. 184. The purpose of the requirement of Section 4224 here under consideration is as stated in Abbott on "Municipal Corporations," Vol. II, p. 1324, "The prevention of ill-advised, hasty or corrupt legislation."

The financial statement discloses the total value of all property of the municipality as listed and assessed for taxation is $4,959,760.00. This issue, in the amount of $350,000.00, of course, need not be considered in calculating the limitation of net indebtedness applicable to municipalities under the provisions of Section 2293-13, General Code, on account of the fact that the entire cost of the improvements in question is to be specially assessed. The petitions filed for the improvements indicate that one realty company is to pay the entire assessments. In the event the municipality should be unable to collect the assessments in question, the obligation must be borne by the municipality, resulting in an outstanding bonded indebtedness considerably in excess of the limitations of indebtedness as set forth in Section 2293-14, General Code. In such event, as previously indicated, in the absence of judicial authority, there is some doubt as to what may be the outcome of an action brought by a taxpayer seeking to enjoin the payment of this obligation.

In view of the foregoing discussion, I do not feel justified in advising you to purchase these notes.

Respectfully,
GILBERT BETTMAN,
Attorney General.

884.

BOARD OF EDUCATION—FREE TUITION AND TRANSPORTATION TO NON-RESIDENT PUPILS UNAUTHORIZED.

SYLLABUS:

A board of education is without authority to extend the privileges of the schools of its district free of charge to non-resident pupils.

COLUMBUS, OHIO, September 18, 1929.

HON. CHARLES T. STAHL, *Prosecuting Attorney, Bryan, Ohio.*

DEAR SIR:—I am in receipt of your letter of recent date which reads as follows:

"I would like to have your opinion concerning a school situation in Williams County.

The board of education of the West Unity school district proposes to offer

free transportation and free tuition to elementary school pupils living in one school district adjacent to the West Unity district. I understand that all foreign pupils from all other districts will be expected to pay tuition.

I would like to know if the West Unity school district can legally admit to its elementary school foreign pupils without requiring the payment of tuition, and if these pupils can be furnished free transportation."

The powers of a board of education are fixed by statutory provisions and limited to the powers so fixed. Courts have consistently held that statutory boards have such powers only as are expressly extended to them by statute, together with such incidental powers as are necessary to carry to fruition the express powers so granted. This principle was specifically applied to boards of education by the Supreme Court in the case of *State ex rel Clarke* vs. *Cook, Auditor,* 103 O. S. 465. See also *Schwing* vs. *McClure,* 120 O. S. 335, 166 N. E. 230.

There is no authority for a board of education to extend to non-resident pupils the advantages of the schools of the district for which it functions, free of charge. On the other hand it is provided by Section 7681, General Code, that the schools of each district shall be free to all youth between six and twenty-one years of age, who are children, wards or apprentices of actual residents of the district, and it is provided by Section 7682, General Code, that, "each board of education may admit other persons on such terms or upon the payment of such tuition within the limits of other sections of law as it prescribes."

It is the clear policy of the law, and properly so, that the taxpayers of a school district should not be burdened with the cost of providing an education for non-resident pupils, and that the revenues of a school district should be expended only to provide school advantages for the children, wards or apprentices of actual residents of the district. If the school advantages of the district are extended to others, the reasonable cost thereof must be paid either by the pupils, their parents or guardians, or by the taxpayers of the school district where they or their parents or guardians reside.

I am therefore of the opinion, in specific answer to your question, that the West Unity school district cannot legally admit to its elementary schools, free of tuition, pupils who are not children, wards or apprentices of actual residents of the district; nor can such children be lawfully furnished transportation free of charge.

Respectfully,
GILBERT BETTMAN,
Attorney General.

885.

APPROVAL, BONDS OF CITY OF CAMPBELL, MAHONING COUNTY—$95,499.61.

COLUMBUS, OHIO, September 18, 1929.

Industrial Commission of Ohio, Columbus, Ohio.