

utes should be paid to the conservation commissioner as is provided for by section 1445. The case of *State vs. Nast, supra*, answers that contention. The court in that case held that a board of education which was entitled to all fines collected for the breach of penal laws could not compel the payment of fines imposed and collected by a court which had no jurisdiction to try criminal cases, the fines of which were to go to the board of education. The second paragraph of the syllabus reads as follows:

“Const. art. 11, sec. 8 (Ann. St. 1906, p. 299), provides that the clear proceeds of all fines collected in the several counties for any breach of the penal laws shall belong to the public schools of the several counties. Held, that a law directing the clerk of a lawfully constituted court to pay all fines into the city treasury is unconstitutional; but, if the court is not lawfully constituted, a board of education cannot compel payment to it of the finest collected.”

It is therefore apparent that although the juvenile court has exclusive jurisdiction of minor offenders under the age of eighteen years for misdemeanors committed by them, nevertheless the proceedings against such minor offenders in the juvenile court are not of a criminal nature but are rather delinquency proceedings arising from the commission of a misdemeanor. That being so, a minor offender charged with violating the fish and game laws of this state is not tried by the juvenile court for violating the fish and game laws, as such, but is tried instead for delinquency as a result of having committed a misdemeanor. Since a delinquency proceeding is not a criminal proceeding the provisions of section 1445, General Code, do not apply in such a case.

Therefore, in specific answer to your question, it is my opinion that the provisions of section 1445, General Code, are not applicable to a proceeding had in a juvenile court against a minor offender under the age of eighteen years, who is charged with violating the fish and game laws of this state.

Respectfully,

GILBERT BETTMAN,  
*Attorney General.*

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3991.

PUBLIC CONTRACT—TRANSPORTATION OF SCHOOL PUPILS—BOARD OF EDUCATION MAY MODIFY OR CHANGE SUCH CONTRACT IF CHANGED CONDITIONS SO WARRANT.

SYLLABUS:

*Where a board of education enters into a contract for the transportation of pupils within the district, and later a bridge is removed by the State Highway Department along the route to be traveled in the transportation of said pupils thus necessitating a long detour in the carrying out of said contract, which facts were not foreseen at the time of originally entering into the contract, the board of education may lawfully modify the said contract and pay to the said contractor an additional sum in consideration of the additional service which must be rendered in the carrying out of said contract.*

COLUMBUS, OHIO, January 25, 1932.

HON. EVERETT L. FOOTE, *Prosecuting Attorney, Ravenna, Ohio.*

DEAR SIR:—This will acknowledge receipt of your recent letter in which you submit for my consideration a matter submitted to you by the clerk of the Charlestown Board of Education in Portage County. The question submitted to you is contained in a letter to you from the clerk of the said board of education. This letter is as follows:

“The Board of Education of the Charlestown School District entered into a contract with S. W., of that township, to transport the pupils to and from the centralized school along Route No. 7 each day the school of said Charlestown Township is in session for the school year 1931-32, for the sum of \$2.25 each day, payable monthly.

The State Highway Department is now improving State Route No. 80. Part of the school bus route, hereinbefore referred to as No. 7, travels over Route No. 80 at a point where the highway department has now removed the bridge. The detour is a very lengthy one for the reason that a county road improvement prevents a reasonably short one and transportation of school children over the detour provided is impractical. The school bus driver can transport the pupils in accordance with his contract by furnishing an additional bus and allowing the children to cross a temporary foot bridge. He has informed the board that he will perform the conditions of his contract provided the board will furnish the additional wagon and pay him an additional 50c per day as long as the bridge is out.

Our board wishes to know if the furnishing of the additional wagon and the payment of the additional 50c per day would be a legal expenditure under the conditions set forth.”

I judge from the tenor of this letter that at the time the board of education of Charlestown School District entered into a contract with S. W. for the transportation of pupils within the district, it was not foreseen that the State Highway Department would later remove the bridge in question and thus necessitate a detour on the route which must necessarily be used in carrying out the contract. That being the case, I am of the opinion that the contract as originally made, may be modified to meet the changed conditions. A somewhat similar question was considered in Opinion 2599 addressed to the Prosecuting Attorney of Licking County. This opinion may be found in the published Opinions of the Attorney General for 1930 at page 1716. It was there held:

“1. Public contracts should be construed as are contracts between natural persons.

2. The cardinal principle for the construction of contracts, to the effect that the intention of the parties should govern in the interpretation of the terms of the contract and that the facts surrounding the parties at the time of entering into the contract may be considered as an aid to determining that intention, is equally applicable in the construction of public contracts, as it is in the construction of contracts between natural persons.

3. A board of education after making a contract for the transporta-

tion of school pupils, may later lawfully modify or change the contract if changed conditions make such action necessary."

Following the opinion cited above, I am of the opinion with reference to the matters submitted by you, that the board of education of the Charlestown School District may lawfully modify the contract made with S. W. and furnish an additional conveyance for his use in the transportation of pupils and also make an additional allowance to him in view of the changed conditions.

Respectfully,  
GILBERT BETTMAN,  
*Attorney General.*

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3992.

APPROVAL, FINAL RESOLUTION FOR EXTRA WORK CONTRACT  
ON ROAD IN JEFFERSON COUNTY, OHIO.

COLUMBUS, OHIO, January 25, 1932.

HON. O. W. MERRELL, *Director of Highways, Columbus, Ohio.*

DEAR SIR:—You have submitted supplemental final resolution covering extra work contract on Sec. "D", S. H. 442, in Jefferson County.

Finding said resolution in proper legal form I have accordingly endorsed my approval thereon and return the same herewith.

Respectfully,  
GILBERT BETTMAN,  
*Attorney General.*

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3993.

APPROVAL, NOTES OF NORTH OLMSTED VILLAGE SCHOOL DIS-  
TRICT, CUYAHOGA COUNTY, OHIO—\$13,000.00.

COLUMBUS, OHIO, January 25, 1932.

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

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3994.

APPROVAL, NOTES OF LIMA CITY SCHOOL DISTRICT, ALLEN  
COUNTY, OHIO—\$60,000.00.

COLUMBUS, OHIO, January 25, 1932.

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