

1912

WATER MAINS—BOARD OF EDUCATION—BONDS MAY BE ISSUED TO INSTALL WELLS AND LAY WATER MAINS TO SCHOOL PROPERTY OR FROM SCHOOL PROPERTY TO CORPORATE LIMITS OF VILLAGE—PROVISO, SHOULD IT BE DECIDED TO PURCHASE WATER FROM VILLAGE, IN EITHER EVENT, INCLUDING COST TO PROCURE RIGHT OF WAY FOR MAINS—SECTION 2293-2 G.C.

SYLLABUS:

Under the authority of Section 2293-2, General Code, bonds may be issued by a board of education for the purpose of installing wells and laying water mains to school property or for laying water mains from the school property to the corporate limits of a village, in case it is decided to purchase water from such village, including in either event the cost of procuring a right-of-way for such mains.

Columbus, Ohio, October 1, 1952

Hon. Julian E. Clark, Prosecuting Attorney
Preble County, Eaton, Ohio

Dear Sir:

I have before me your request for my opinion, reading as follows:

“One of our local Boards of Education does not have a sufficient water supply for their pupils, and for many years has tried to improve the same, without success.

“Geologists, recently called in for consultation, have advised there is no available water supply on the school property and that to secure an adequate water supply they suggest one of the following procedures:

“1. Locate a water supply along Twin Creek, which is at least a mile from the school property, by drilling test wells and if a supply is found, to drill wells, erect pumping station and install water lines to the school property.

“2. Purchase water from the Village of West Alexandria, which is three miles distant from the school property. This latter procedure would involve the laying of water line from the corporate limits of the village to the school grounds by the Board of Education.

“My question is whether or not the Board of Education

in question has authority to issue bonds to carry out either of the foregoing recommendations.”

Section 4834-10, General Code, reads as follows:

“The board of education of any school district, except a county school district, may build, enlarge, repair and furnish the necessary school houses, purchase or lease sites therefor, or rights of way thereto, or purchase or lease real estate to be used as playgrounds for children or rent suitable schoolrooms, either within or without the district, and provide the necessary apparatus and make *all other necessary provisions for the schools under its control.*”
(Emphasis added.)

The above quoted section provides full authority for the board of education of any school district, except a county school district, to acquire the necessary sites and construct or provide the necessary buildings for the operation of the schools. The final words of the sentence, authorizing it to “provide * * * all other necessary provisions for the schools under its control,” are intended to gather up all of the incidental matters that must enter into the completion of a school plant to make it ready for use for its intended purpose. While this provision has been repeatedly held to be confined to the physical features of a school plant, yet it has been construed to give the board of education broad discretion in providing such other necessary facilities as it deems essential. Thus it has been held that a board may construct cement sidewalks on streets abutting school premises, Opinion No. 3885, Opinions of the Attorney General for 1922, page 1127; may purchase a right of way leading from a highway to a schoolhouse, Opinion No. 2920, Opinions of the Attorney General for 1928, page 2678; may provide floodlights for the playgrounds and athletic fields, Opinion No. 582, Opinions of the Attorney General for 1939, page 733.

In an opinion of one of my predecessors, being No. 326, Opinions of the Attorney General for 1945, page 352, it was held:

“1. Where it is proposed by a municipality to extend its water service to properties situate outside its corporate limits, a board of education of a rural school district, for the purpose of obtaining a water supply for its school building and property may, pursuant to the authority of Section 4834-10, General Code, contract for and pay the reasonable cost of procuring such service.”

The then Attorney General, discussing the phrase, "make all other necessary provisions" said:

"This gives the board of education very wide latitude, and in determining whether a board is acting within its powers in making 'necessary provisions,' it is only necessary to ascertain whether the particular action of the board is appropriate to the proper conduct and management of the schools under its control. This section, however, clearly relates and is confined to the physical equipment in the way of buildings, grounds, apparatus, etc., which are incident to the proper operation of the schools.

"It is quite obvious that one of the very essential provisions for the conduct of a school is a proper and adequate water supply. It needs no specific mention of water supply in the statutes defining the powers of a board of education to lead to the conclusion that it has the power to provide the same. It is not only a power but manifestly a duty. The method of procuring such water supply would seem to me to be wholly within the discretion of the board of education so long as it does not violate any recognized limitations on its general power."

In your letter of inquiry you mention two methods of procedure by which it is proposed to secure the necessary water supply: (1) to drill wells, erect a pumping station and install water lines from the site of the wells to the school property; (2) to lay a water line from the corporate limits of the village to the school grounds, and purchase the water from the village. It appears to me that either of these methods would be quite within the powers of the board of education in providing for the necessary water supply for the school.

Coming, then, to your main question, as to the authority of the board of education to issue bonds for the purpose of providing such water supply, I note the provisions of Section 2293-2, General Code, which reads in part, as follows:

"The taxing authority of any subdivision shall have power to issue the bonds of such subdivision for the purpose of acquiring or constructing, any permanent improvement which such subdivision is authorized to acquire or construct. * * *"

Inasmuch as the proposed installations form a proper part of the completion of the school plant, there can be no question but that it is a "permanent improvement", within the meaning of the section just quoted,

and accordingly, bonds may lawfully be issued therefor. Of course, the current cost of the water to be purchased from the village is not a part of the improvement, and I assume that you did not intend to suggest that the cost of purchasing the water was to be included in the bond issue.

It is accordingly my opinion and you are advised that under the authority of Section 2293-2, General Code, bonds may be issued by a board of education for the purpose of installing wells and laying water mains to the school property or for laying water mains from the school property to the corporate limits of a village, in case it is decided to purchase the water from such village, including in either event, the cost of procuring a right-of-way for such mains.

Respectfully,

C. WILLIAM O'NEILL

Attorney General