

Opinion No. 247**Schools—Trustees—Transportation
—Bus, Purchase of.**

HELD: There is a "fair and reasonable doubt" that the legislature intended by implication to empower school boards to purchase a bus as a means of transporting pupils when only transportation by contract is expressly authorized, and the power must be denied.

June 21, 1933.

You request an opinion from this office as to whether or not the statutes authorizing boards of school trustees to provide for the transportation of pupils to and from schools empowers such boards to purchase school buses for use in such transportation.

Section 1010, R. C. M. 1921, as amended by Chapter 102, Laws of 1929, provides that the trustees may, under given circumstances, provide for the transportation of pupils by contract. Sections 18 and 44 of Chapter 148, Laws of 1931, provides that the trustees may pay part of all the cost of transportation of high school pupils. Section 44, above, was amended and broadened by

Chapter 156, Laws of 1933. Chapter 156 has this proviso: "But all moneys expended in accordance with this section for rent of quarters or transportation shall be paid out only according to the schedule therefor promulgated by the State Board of Education, and not otherwise."

The Board of Education has met but once since Chapter 156 became a law and has promulgated no schedule in this matter. None of the statutes on the subject refers to any means of furnishing transportation except by contract.

Boards of school trustees are political subdivisions of the state and may exercise only such powers as are expressly conferred upon them by statute and as are necessarily implied in the exercise of those expressly conferred. (*McNair v. School District No. 1, Cascade County*, 87 Mont. 423.) School boards, in the matter of the powers they may exercise as subdivisions of the state, are much in the same class as boards of county commissioners. In *Sullivan v. Big Horn County*, 66 Mont. 45, the Court said: "Aside from the powers granted to counties by statute and those necessarily implied from the powers expressed, they have none, and when there is a fair and reasonable doubt as to the existence of a particular power, it must be resolved against them and the power denied."

It is our opinion that there is "a fair and reasonable doubt" about the legislature intending by implication to empower school boards to purchase automobiles as a means of transporting pupils when only transportation by contract is expressly authorized, and the power must be denied.