

state. This being true, I do not feel at liberty to go further to inquire into the advisability of applying the restriction in this instance. Doubtless the application of the prohibition in this instance is unnecessary to effectuate the general purpose back of the enactment of the section, but if this be so, the remedy lies with the Legislature and not, as the Supreme Court in the case quoted above stated, in a forced construction to exclude from the operation of the statute the corporation in question.

You are accordingly advised that, by virtue of the provisions of Section 710-3 of the General Code, the use of the word "bank" as a part of the designation or name of any person, firm or corporation doing business in this state is confined to banks, as defined in Section 710-2 of the General Code, and such use by any other person, firm or corporation is prohibited.

The suggested insertion of the hyphen between the words "bank" and "securities" would not in my opinion have any effect. The ordinary use of a hyphen is to connect two words and the word "bank" would still remain and be a separate word. It is of course obvious that these two words have not been so commonly used together as to entitle them to be joined together as a compound word. The truth of this is easily ascertained by reference to any of the standard dictionaries. This being true, the arbitrary insertion of a hyphen would not in my opinion authorize me to regard the word "bank" as not being used as part of the name of the corporation in question.

Respectfully,  
EDWARD C. TURNER,  
*Attorney General.*

1997.

OFFICES—ASSISTANT COUNTY SUPERINTENDENT OF SCHOOLS AND  
COUNTY ATTENDANCE OFFICER INCOMPATIBLE.

*SYLLABUS:*

*A county board of education may not employ an assistant county superintendent as county attendance officer for the county school district, for the reason that it is physically impossible for one person to perform the duties of both positions, inasmuch as the entire time of the assistant county superintendent of schools is required by Section 7706, G. C., to be taken up in the performance of his duties as such assistant county superintendent.*

COLUMBUS, OHIO, April 20, 1928.

HON. JOHN G. WORLEY, *Prosecuting Attorney, Cadiz, Ohio.*

DEAR SIR:—I am in receipt of your communication requesting my opinion as follows:

"A situation has arisen in Harrison County, upon which I am asked to obtain the opinion of the Attorney General's office.

May an assistant county superintendent of schools appointed by the county superintendent, act also under selection by the County School Board, in the additional capacity of county attendance officer? In the case in hand no additional compensation will be paid the individual as attendance officer the former officer's salary being saved to the county."

Authority for county boards of education to employ assistant county superintendents is conferred by Section 4739, General Code. The duties of assistant county superintendents are set forth in Section 7706, General Code, which reads as follows:

"The county superintendent and each assistant county superintendent shall visit the schools in the county school district, direct and assist teachers in the performance of their duties, and classify and control the promotion of pupils. The county superintendent shall spend not less than one-half of his working time, and the assistant county superintendents shall spend such portion of their time as the county superintendent may designate in actual class room supervision. Such time as is not spent in actual supervision shall be used for organization and administrative purposes, and in the instruction of teachers. At the request of the county board of education the county superintendent shall teach in teachers' training courses which may be organized in the county school district."

County boards of education are required to employ a county attendance officer, and may employ such assistants as it deems necessary. The authority for this is found in Section 7769-1, General Code, which reads in part as follows:

"Every county board of education shall employ a county attendance officer, and may employ or appoint such assistants as the board may deem advisable. \* \* \*"

The duties of the attendance officer and his assistants are set forth in Sections 7769-2 et seq. of the General Code.

Public offices and public employments are said to be incompatible when they are made so by statute, or when by reason of the common law rule of incompatibility they are rendered incompatible. The common law rule of incompatibility as stated by the Circuit Court in the case of *State ex rel. vs. Gebert*, 12 O. C. C. (N. S.) 274, is as follows:

"Offices are considered incompatible when one is subordinate to or in any way a check upon the other; or when it is physically impossible for one person to discharge the duties of both."

In Opinion No. 686, rendered under date of July 5, 1927, it was held:

"The board of education of a city school district may in its discretion appoint its superintendent of schools as attendance officer if circumstances are such that it is physically possible for one person to perform the duties of both positions."

The conclusion reached in the aforesaid Opinion No. 686 was based on the fact that upon examination of the prescribed duties of a city superintendent of schools and of a city attendance officer, it was found that their duties in no wise conflicted, and that the entire time of the city superintendent of schools was not necessarily taken up in the performance of his duties as superintendent. Therefore, if it was physically possible for him to perform the duties of both positions by reason of the fact that he was not required to spend all his time in the performance of his duties as superintendent, he might perform the duties of attendance officer as well.

Upon examination of the statutory duties required of an assistant county superintendent and those of an attendance officer it will be found that one is not in any respect subordinate to or a check upon the other, but by Section 7706, General Code,

the entire time of the assistant county superintendent of schools is required to be taken up in the performance of the duties prescribed for him in said section.

It will be observed that said Section 7706, supra, provides that:

“The assistant county superintendents shall spend such portion of their time as the county superintendent may designate in actual class room supervision. Such time as is not spent in actual supervision shall be used for organization and administrative purposes, and in the instruction of teachers.”

Thus it will be seen that the entire time of the assistant county superintendent is taken up either in class room supervision or for organization and administrative purposes, and in the instruction of teachers, so that under the law it would be physically impossible for an assistant county superintendent of schools to perform the duties of a county attendance officer.

I am therefore of the opinion that a county board of education may not employ an assistant county superintendent as an attendance officer for the county school district. The fact that he is to receive no compensation for the performance of his duties as county attendance officer is not material.

This opinion is in accord with an opinion of the Attorney General rendered in 1921, and reported in Opinions, Attorney General, 1921, Vol. 1, page 793.

Respectfully,

EDWARD C. TURNER,  
*Attorney General.*

1998.

APPROVAL, LEASES TO OHIO CANAL, MIAMI & ERIE CANAL, PORTAGE LAKES AND BUCKEYE LAKE LANDS—DISAPPROVAL, LEASE TO MIAMI & ERIE CANAL LAND.

COLUMBUS, OHIO, April 21, 1928.

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

DEAR SIR:—I am in receipt of your communication of April 19, 1928, in which you enclose the following leases, in triplicate, for my approval:

OHIO CANAL.

	<i>Valuation.</i>
Leon & Esther Anderson.....Land.....	\$200 00
George A. Barr.....Land.....	100 00
Elmer Blain.....Land.....	100 00
Clara S. Bryan.....Land.....	150 00
W. G. Cole.....Land.....	1,000 00
M. F. Cooper.....Boat house and landing.....	125 00
Carl DeShon.....Boat landing.....	200 00
Howard L. Hockman.....Land.....	333 34
James McDaniel.....Land.....	100 00
Frank McGeorge.....Land.....	400 00
H. F. Maranville.....Boat house.....	100 00
Alice C. Noel.....Land.....	500 00
The Ohio Power Company.....Pole line.....	266 67
Maude M. Simpson.....Land.....	200 00