

4775

EDUCATION, BOARD OF — RURAL SCHOOL DISTRICT — MAY ELECT CLERK WHO IS NOT AN ELECTOR IN SUCH SCHOOL DISTRICT OR TOWNSHIP IN WHICH SUCH SCHOOL DISTRICT SITUATED.

SYLLABUS:

A board of education of a rural school district may elect as its clerk, a person who is not an elector of such school district or township in which such school district is situated.

Columbus, Ohio, February 4, 1942.

Hon. John W. Howell, Prosecuting Attorney,  
Gallia County,  
Gallipolis, Ohio.

Dear Sir:

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

“Will you kindly advise me at your early convenience as to whether or not it is necessary that a clerk of a rural board of education be an elector of the school district and township in which he has been employed as such clerk.”

The provisions of law relating to the appointment of the clerk of a school board are set forth in Section 4747, of the General Code, which reads:

“The board of education \* \* \* shall organize on the first Monday of January after the election of members of said board. One member of the board shall be elected president, one as vice-president, and a person who may or may not be a member of the board shall be elected clerk. The president and vice-president shall serve for a term of one year, and the clerk for a term not to exceed two years. \* \* \*”

Section 4, Article XV of the Constitution of Ohio, provides in part:

“No person shall be elected or appointed to any office in this State unless possessed of the qualifications of an elector; \* \* \*”

It will be noted that the above provision has application only to persons elected or appointed to an office in this state.

Therefore, if the clerk of a rural board of education holds an office

he would fall within the terms of the above provision. In the cases of The Board of Education of the City School District of the City of Cleveland, vs. Featherstone, 110 O. S., 669, and the Board of Education of the City School District of the City of Cleveland, vs. Juergens, 110 O. S., 667, it was held that the clerk of a board of education of a city school district is an employee and not an officer.

Since the duties enjoined upon a clerk of a rural board of education are identical with those of a clerk of a board of education of a city school district, the above cases are clearly dispositive of your question. See also O. A. G. 1921, No. 1813 and O. A. G. 1933, No. 162.

Therefore, in specific answer to your inquiry, it is my opinion that a board of education of a rural school district may elect as its clerk, a person who is not an elector of such school district or township in which such school district is situated.

Respectfully,

THOMAS J. HERBERT  
Attorney General.