

collected by special assessments and then reimburse such general ditch improvement fund from the proceeds of such assessments as they are collected.

Respectfully,

GILBERT BETTMAN,
Attorney General.

2954.

HIGH SCHOOL—TWO DISTRICTS UNITE TO CONSTRUCT A BUILDING—BOARDS OF EDUCATION OF UNITED DISTRICTS MAY NOT PROCEED AS JOINT BOARD—JOINT COMMITTEE APPOINTED BY AUTHORITY OF STATUTE LIMITED TO MANAGEMENT.

SYLLABUS:

1. *Where the boards of education of two adjoining school districts unite such districts for high school purposes by authority of Section 7669, General Code, and a high school committee is appointed, in accordance with the provisions of Section 7670, General Code, to manage said high school, there is no authority in the committee so chosen to purchase a site or let a contract for the erection of a building.*

2. *There is no authority for two or more boards of education to organize and function as a joint board for any purposes relating to the establishment or maintenance of a joint high school or the construction of a joint high school building when their districts are united for high school purposes by authority of Section 7669, General Code.*

3. *When, after two or more school districts become united for high school purposes and thereby a joint high school is established by authority of Section 7669, General Code, it becomes necessary to construct a high school building for the said high school, the contract for the same should be let and the building erected by the boards of education of the united districts acting concurrently rather than as a joint board.*

COLUMBUS, OHIO, February 17, 1931.

HON. ERNEST M. BOTKIN, *Prosecuting Attorney, Lima, Ohio.*

DEAR SIR:—I am in receipt of your request for my opinion with reference to the following:

“Where the boards of education of two adjoining school districts unite such districts for high school purposes as provided by Section 7669, General Code, and thereafter each district by vote of the electors, authorizes a bond issue for the purpose of building a joint high school for the use of said districts, are the proceedings with reference to the contract for the construction of such building and the disbursement of the proceeds derived from the sale of such bonds within the duties of the joint high school committee provided by Section 7670 of the General Code, or should such proceedings be taken care of by the two boards acting as a joint board?”

Sections 7669 and 7670, General Code, read as follows:

Sec. 7669. “The boards of education of two or more adjoining school districts, by a majority vote of the full membership of each board,

may unite such districts for high school purposes. Each board also may submit the question of levying a tax on the property in their respective districts for the purpose of purchasing a site and erecting a building, and issue bonds, as is provided by law in case of erecting or repairing school houses; but such question of tax levy must carry in each district before it shall become operative in either. If such boards have sufficient money in the treasury to purchase a site and erect such building, or if there is a suitable building in either district owned by the board of education that can be used for a high school building it will not be necessary to submit the proposition to vote, and the boards may appropriate money from their funds for this purpose."

Sec. 7670. "Any high school so established shall be under the management of a high school committee, consisting of two members of each of the boards creating such joint district, elected by a majority vote of such boards. Their membership of such committee shall be for the same term as their terms on the boards which they respectively represent. Such high school shall be free to all youth of school age within each district, subject to the rules and regulations adopted by the high school committee, in regard to the qualifications in scholarship requisite for admission, such rules and regulations to be of uniform operation throughout each district."

The question submitted in your inquiry has been considered by two former Attorneys General, and the conclusion reached in these former opinions has since been followed in the administration of the law relating to the establishment of joint high schools and the construction of joint high school buildings. In 1916, the then Attorney General, in an opinion reported in the published opinions for that year, at page 1100, said with reference to the purchase of a site and the construction of a joint high school building where a joint high school has been established:

"The site should be purchased and the high school building erected by the boards of education of the several united districts."

In a later opinion by the then Attorney General in 1917, which opinion is published in the Opinions of the Attorney General for that year, at page 247, it is said, after quoting the provisions of Sections 7670 and 7671, General Code, which latter statute relates to the appropriation and expenditure of funds for the maintenance and support of a high school after the same has been established:

"It is clear from the provisions of these sections that the only authority conferred upon the high school committee is that of managing the high school established by the boards of education, and I am, therefore, of the opinion that the high school committee of four members provided for by Section 7670 of the General Code would have no authority to purchase a site for and let a contract for the erection of a high school building thereon either with or without an attempted grant of authority to do so on the part of the respective boards of education, for I see nothing in the provisions of any of the sections above considered authorizing the respective boards of education to delegate the authority imposed on them to provide for the erection of or to otherwise establish a high school."

Upon consideration of the foregoing opinions the conclusions therein reached appear to be sound, and I am therefore of the opinion that where the boards of education of two adjoining school districts unite such districts for high school

purposes, by authority of Section 7669, General Code, and a high school committee is appointed, in accordance with the provisions of Section 7670, General Code, to manage said high school, there is no authority in the committee so chosen to purchase a site or let a contract for the erection of a building.

In view of the specific provisions for separate action of the several boards of education in effecting a union of the districts for high school purposes, the absence of provision for joint action of the boards in respect to any matters in relation to such united districts and the further provision that where a tax levy is authorized to be submitted, each board must submit the same and the requirement that it carry in each district before it shall become operative in either, the legislative intent seems faintly clear that the several boards act separately with reference to all matters within their control pertaining to joint high schools established by authority of Section 7669, General Code.

Besides, there is no authority for the organization and functioning of a joint board composed of the several boards interested in a joint high school with respect to matters pertaining to such school, and we must therefore conclude that in the purchasing of a site for such a school and the construction of a joint high school building thereon the several boards of education interested must act separately and concurrently rather than jointly.

Respectfully,
GILBERT BETTMAN,
Attorney General.

2955.

SCHOOL MONEYS — QUALIFICATION OF DEPOSITORY — WHEN BOARD OF EDUCATION MAY CHOOSE A BANK OUTSIDE SCHOOL DISTRICT.

SYLLABUS:

When a board of education has contracted with a bank in the district for the deposit of its school moneys and the said bank is not qualified under the law to receive on deposit all the moneys coming into the hands of the treasurer of the school district, and there is no other bank in the district willing to receive said moneys, furnish the proper security therefor and pay at least two per cent interest on said deposit, the said board of education may lawfully contract with a bank outside the district and conveniently located, which offers the highest rate of interest, not less than two per cent and furnishes the proper security for the deposit of the district's surplus moneys over and above what may be deposited in its regular depository.

COLUMBUS, OHIO, February 17, 1931.

HON. C. G. L. YEARICK, *Prosecuting Attorney, Newark, Ohio.*

DEAR SIR:—This will acknowledge receipt of your request for my opinion, which reads as follows:

“Pursuant to Section 7604 of the General Code of Ohio, the Board of Education of Pataskala Village School District, in Licking County, provided for the deposit of all moneys coming into the hands of its treasurer into the Peoples Bank of Pataskala. The amount of the bond given by the bank is \$20,000.00.