

This office has held that under this section, as enacted by the 87th General Assembly, townships are prohibited from incurring net indebtedness without a vote of the electors except as therein specified. Opinions of the Attorney General, 1928, Vol. I, p. 690; Opinion No. 149, March 6, 1929; No. 330, April 22, 1929; and No. 909, September 24, 1929. To place a construction upon Section 7201 such as would authorize the issuance of general township notes payable to bearer, would raise a serious question as to whether or not this section has been repealed by implication by Section 2293-17, *supra*. It is well established that when a section is subject to two constructions, one of which will render it invalid, that construction will be adopted which will give full force and effect to every enactment of the General Assembly not obnoxious to the constitution. *Beverstock vs. Board of Education, et al.*, 75 O. S. 144.

In view of the foregoing and in specific answer to your question, it is my opinion that:

1. Under the provisions of Section 7201, General Code, township trustees may purchase a road grader for use in the construction, maintenance and repair of roads upon the terms therein provided, by the issuance of township notes to the seller of such grader.

2. Section 7201 does not authorize the issuance of notes for the purposes therein specified to other than the seller of such road machinery.

Respectfully,

GILBERT BETTMAN,
Attorney General.

1754.

TEACHER'S CERTIFICATE—USING SPECIAL CERTIFICATE FOR
TEACHING CERTAIN SUBJECTS IN HIGH SCHOOL TO TEACH SAME
SUBJECTS IN ELEMENTARY SCHOOL AUTHORIZED.

SYLLABUS:

A person holding a certificate qualifying him to teach certain subjects in a high school, may lawfully be employed to teach those same subjects in an elementary school.

COLUMBUS, OHIO, April 10, 1930.

HON. C. E. MOYER, *Prosecuting Attorney, Sandusky, Ohio.*

DEAR SIR:—This will acknowledge receipt of your inquiry which reads as follows:

“Will you kindly give me your opinion as to whether or not a person holding a special teacher's certificate to teach special subjects, in this instance, being two subjects, in a high school, may teach in an elementary school without having an elementary certificate, in other words, whether or not a high school certificate as above stated includes an elementary certificate.”

An elementary school is defined by Section 7648, General Code, as one in which instruction and training are given in spelling, reading, writing, arithmetic, English language, English grammar, and composition, geography, history of the United States including civil government, physiology and hygiene and any other subjects required by law, primarily to students of the first to eighth school years, inclusive.

Other statutes require that the subject of thrift be taught for at least thirty minutes

each week in each grade of the elementary schools and that such instruction in physical education be given as may be prescribed or approved by the Director of Education. In rural and village school districts, agriculture shall be included in the curriculum of elementary schools.

A high school is defined by Section 7649, General Code, as one of a higher grade than an elementary school, in which instruction and training are given in approved courses in the history of the United States and other countries; composition, rhetoric, English and American literature; algebra and geometry; natural science, political or mental science, ancient or modern foreign languages, or both, commercial and industrial branches, or such of the branches named as the length of its curriculum makes possible. Also such other branches of higher grade than those to be taught in the elementary schools, with such advanced studies and advanced reviews of the common branches, as the board of education directs.

Section 7830, General Code, provides as follows:

“No person shall be employed or enter upon the performance of his duties as teacher in any elementary school supported wholly or in part by the state in any school district who has not obtained from a certifying authority having legal jurisdiction a certificate of good moral character; that he is qualified to teach orthography, reading, writing, arithmetic, English grammar and composition, geography, history of the United States, physiology, including narcotics, literature, and elementary agriculture and that he possesses an adequate knowledge of the principles of teaching; except as provided in Sections 7807-9, 7807-10, 7807-6, 7852 and 7831-1.”

It will be noted from the above statute that no person may be employed to teach an elementary school unless he has obtained a certificate showing him to be qualified to teach certain branches named in said statute, except as provided in Sections 7807-9, 7807-10, 7807-6, 7852 and 7831-1, General Code.

Said Sections 7807-6, 7807-9 and 7807-10, General Code, authorize the granting and renewal of state provisional certificates without examination, for the teaching of certain vocational and economic subjects in classes supported by federal aid and also for the granting and renewal of state provisional certificates to teach any kindergarten and first and second grades of elementary schools, by the State Superintendent of Public Instruction, to those who have completed a four-year high school course or the equivalent, and at least a two-year course in an approved school for the training of teachers provided the course as conducted is approved by the Superintendent of Public Instruction for the specific purpose.

Section 7852, General Code, provides that city boards of education may relieve applicants for elementary certificates from examination in agriculture or may substitute general science or nature study for agriculture.

Section 7831-1, General Code, provides for the employment of persons to teach classes supported with federal aid, upon the certification by the Superintendent of Public Instruction, with the approval of the State Board of Vocational Education, that such person is qualified to teach the said subjects.

Section 7831-2, General Code, provides that every applicant for a high school certificate, by examination, shall undergo a general examination in English and in principles of teaching, and a particular examination in all subjects he is to teach.

Special certificates are issued to teachers to teach special subjects, Section 7832, General Code.

Section 7829, General Code, provides that local boards of examiners are authorized to issue only three classes of certificates, namely, a teacher's elementary school certificate valid to teach all branches in elementary schools including elementary

branches in junior high schools, teacher's high school certificates valid to teach all branches in recognized high schools and junior high schools and teachers' special certificates valid in schools of all grades but only for the branches of study named therein.

Section 7829-1, General Code, provides that all original high school certificates issued after July 1, 1924, by any certifying authority, and all renewals of such certificates thereafter issued, shall be specific for teaching only the branches named therein.

From the foregoing, it appears that before a person may be employed to teach in an elementary school he must have an elementary school certificate, certifying as to his qualifications to teach all the subjects named in Section 7830, General Code, and such other subjects as are prescribed to be taught in elementary schools, or a special certificate to teach the particular subjects in an elementary school which he is employed to teach.

It appears that in the case submitted by your inquiry, the person mentioned had neither a "teacher's elementary certificate" nor a "teacher's high school certificate", but a special certificate to teach two subjects in a high school. This certificate to teach those special subjects would permit his employment to teach those subjects in either a high school or an elementary school and if he held a certificate to teach two subjects, such as United States history, and English grammar, in a high school he could lawfully be employed to teach those same subjects in an elementary school without having been granted what is generally spoken of as a "teacher's elementary school certificate", but the mere fact that he held a certificate entitling him to be employed in a high school to teach two subjects would not qualify him for employment as a teacher of an elementary school other than for the teaching of those two particular subjects.

Respectfully,

GILBERT BETTMAN,
Attorney General.

1755.

ELECTION LAW—HOW BALLOTS PREPARED FOR ELECTING TWO COMMON PLEAS JUDGES TO ASSUME OFFICE AT A DIFFERENT TIME AND A DOMESTIC RELATIONS JUDGE—CANDIDATES MUST DESIGNATE JUDGESHIP SOUGHT.

SYLLABUS:

1. *In the event three judges of the Court of Common Pleas are to be elected at the same election, one to fill a term of office commencing on the first day of the next January, one to fill a term of office commencing on the 9th day of the next February, and one to fill a term of office commencing on the first day of the next January as judge of such court, Division of Domestic Relations, candidates for the different terms of office and for the Division of Domestic Relations should designate the term or division sought.*

2. *The ballots to be used at such election should be arranged as provided in Section 4785-101, General Code, with a separate designation as to each, as follows:—Judge of the Court of Common Pleas, Term commencing January 1, 1931; Judge of the Court of Common Pleas, Term commencing February 9, 1931; Judge of the Court of Common Pleas, Division of Domestic Relations.*