

3586.

APPROVAL, BONDS OF WHEELERSBURG RURAL SCHOOL DISTRICT,
SCIOTO COUNTY, OHIO—\$51,500.00.

COLUMBUS, OHIO, September 18, 1931.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.

3587.

APPROVAL, BONDS OF GREEN TOWNSHIP RURAL SCHOOL DIS-
TRICT, ROSS COUNTY, OHIO—\$39,500.00.

COLUMBUS, OHIO, September 18, 1931.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.

3588.

SCHOOL DISTRICT—INCORPORATION OF VILLAGE WITHIN CITY
SCHOOL DISTRICT CREATES A SEPARATE SCHOOL DISTRICT.

SYLLABUS:

Upon the creation of a village from territory formerly embraced within the boundaries of a city school district, the village so created, becomes a separate village school district, in accordance with the terms of section 4687, of the General Code.

COLUMBUS, OHIO, September 19, 1931.

HON. CALVIN CRAWFORD, *Prosecuting Attorney, Dayton, Ohio.*

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

“A request for an opinion has come to our office construing Section 4687, of the General Code, upon the following state of facts:

Surrounding the City of Dayton, but outside the corporate limits, is certain territory which is a part of the Dayton City School District; to be specific, the territory in question includes several square miles of township territory. A certain community in this territory which is now within the Dayton City School District, but without the corporate limits of the City of Dayton, desires to incorporate itself into a Village. However, if possible, the people residing in the proposed village territory desire that the schools be and remain a part of the City of Dayton School District.

If it is legally impossible for such an arrangement to obtain, the movement to incorporate a village will probably collapse.

Upon reading said Section 4687, it appears to us that if said territory does become a Village, it will be compelled to withdraw from the Dayton City School District.

We would appreciate your opinion on whether or not our conclusion is correct. If at all possible, we would appreciate your early opinion because the movement to incorporate is being suspended, pending our final report on the question."

The pertinent part of section 4687, General Code, reads as follows:

"Upon the creation of a village, it shall thereby become a village school district, as herein provided, and, if the territory of such village previous to its creation was included within the boundaries of a rural school district and such rural school district included more territory than is included within the village, such territory shall thereby be attached to such village school district for school purposes, provided such territory has an area of less than 16 square miles. * * *"

The words "as herein provided" used in the above statute no doubt refer to sections 4681 and 4682, General Code. These statutes provide in substance that each village, together with the territory attached to it for school purposes, and excluding the territory within its corporate limits detached for school purposes, shall constitute a village school district providing the district thus formed has a total tax valuation of not less than \$500,000.

It will be observed that neither section 4681 nor section 4687, General Code, limits the territory which is incorporated as a village to territory lying outside of a city school district, and we have no reason to conclude that such territory if incorporated as a village does not become a separate village school district as provided by the statute. In fact the language of the statute implies that such territory may be territory included within a school district other than a rural school district, inasmuch as it provides "if the territory of such village, previous to its creation, was included within the boundaries of a rural school district," etc.

There is a clear implication in the language quoted above that the intention of the legislature in enacting the statute was that a village created from territory other than that included within a rural school district should become a separate village school district as well as those villages created from territory embraced within a rural school district.

I am therefore of the opinion, in specific answer to your question, that in the event the territory described in your inquiry is incorporated as a village, such village will become a village school district, providing it has a tax duplicate of not less than \$500,000.

I might suggest that if this incorporation takes place, and such territory thereby becomes automatically withdrawn from the Dayton School District and thereby a separate village school district is constituted, that district may be transferred to the Dayton City School District by authority of Section 4696, of the General Code.

Respectfully,

GILBERT BETTMAN,
Attorney General.