

amount of money that may be borrowed is limited to those expenses which the local board of health deems necessary to prevent the spread of such disease.

I am unable to read into the clear and express provisions of this section any authority for the borrowing of money to cover the ordinary expenses of a board of health and therefore advise that in my opinion such authority is not contained therein.

Respectfully,
GILBERT BETTMAN,
Attorney General.

3084.

APPROVAL, CONTRACTS FOR ROAD IMPROVEMENTS IN SUMMIT
AND STARK COUNTIES.

COLUMBUS, OHIO, March 23, 1931.

HON. O. W. MERRELL, *Director of Highways, Columbus, Ohio.*

3085.

APPROVAL, BONDS OF MINSTER VILLAGE SCHOOL DISTRICT,
AUGLAIZE COUNTY, OHIO—\$88,000.00.

COLUMBUS, OHIO, March 24, 1931.

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

3086.

APPROVAL, BONDS OF ROME TOWNSHIP, ATHENS COUNTY, OHIO,
\$15,000.00.

COLUMBUS, OHIO, March 24, 1931.

Industrial Commission of Ohio, Columbus, Ohio.

3087.

SCHOOL SITES—SELECTION—POWERS OF BOARD OF EDUCATION
UNDER STATUTE DISCUSSED—RESIDENTS OF DISTRICT STILL
RETAIN RIGHT TO HAVE ANY CLOSED SCHOOL REOPENED
UPON PETITION.

SYLLABUS:

1. *A board of education possesses the power to select school sites by force of Section 7620, General Code, and in the absence of abuse of discretion, fraud or collusion, the exercise of such power will not be interfered with by the courts.*

2. *The board of education of a rural or village school district may, by authority of section 7730, General Code, suspend any one or all the schools of the school district and provide for the assignment of the pupils attending such schools to one or more other schools of the district, subject to the rights of the patrons of;*

any of the schools so suspended to have the school reopened upon petition, as provided by Section 7730, General Code.

3. *The power of a board of education in a rural or village school district to suspend any of the schools of the district is not dependent upon a petition that may be filed by the residents of the district.*

COLUMBUS, OHIO, March 24, 1931.

HON. HARRY I. KAYLOR, *Prosecuting Attorney, Kenton, Ohio.*

DEAR SIR:—This will acknowledge receipt of your request for my opinion with respect to the following:

“In Goshen Township of Hardin County, Ohio, there are seven schools in seven different districts, governed by one board of education. In this same township there are three hundred seventy-one qualified electors. Two hundred sixty-five of the above number signed a copy of the enclosed petition for the consolidation of these seven districts into two schools at two advantageous and convenient locations in said township and seventy-one of the above number have signed a petition against the consolidation of these two among the seven districts. Thirty-five remaining of the above number have signed neither of the two petitions.

Under section 7730, of the General Code of Ohio, authority is given to the board of education of any rural or village school district to suspend by resolution, temporarily or permanently, any school for disadvantageous location or any other cause.

Under the circumstances, does such school board of Goshen Township have the authority to suspend the seven schools and consolidate the districts into the two centrally located schools and hire four teachers therefor and transport the children to said school?”

In the case of *State v. School District*, 30 O. C. A., 365, it was held that by force of Section 7620 of the General Code, boards of education are vested with the power to select school sites, and in the absence of abuse of discretion, fraud or collusion, the exercise of that power will not be interfered with by the courts. See also Opinions of the Attorney General for 1920, at page 885.

Section 7730, General Code, provides in substance, that the board of education of any rural or village school district may suspend by resolution, temporarily or permanently, any school in such district, because of disadvantageous location or for any other cause, and when such school is suspended, the board shall provide for the assignment of the pupils within the territory of the suspended school to such other school or schools as may be named by the board. Under certain circumstances, upon order of the county board of education a local board of education in a village or rural school district is required to suspend a school and provide for the assignment of the pupils to another school. The statute provides that when a school is to be suspended notice thereof must be posted. It provides further:

“Upon petition filed with a local board of education between May 1 and August 1 of any year signed by the parents or guardians of twelve children between seven and fifteen years of age, living in the district and enrolled in school whose residences are nearer to a certain school which has been suspended than to any other school of the district, asking that such suspended school be reopened, the local board of education shall

reopen such school for the ensuing school year provided there is a suitable school building in the territory of such suspended school as it existed prior to suspension."

Section 7730-1, General Code, provides that in order to protect the rights of the petitioners mentioned in Section 7730, General Code, where a school has been suspended, the school building and real estate located in the territory of such suspended school shall not be sold by the board of education until after four years from the date of the suspension of said school unless the said building has been condemned for school use by the Director of Industrial Relations of Ohio.

The power to suspend schools extended to boards of education by virtue of said section 7730, General Code, is not dependent in any respect upon the filing of petitions by the electors or residents of the school districts. The power is extended to the board by force of the statute itself, and petitions one way or the other neither add to or take from the power so extended. The only purpose that petitions with reference to this matter would serve would be to advise the board of education of the wishes of their constituents, but they have no force whatever so far as the right of the board is concerned to suspend the schools.

A board of education may by force of this statute, suspend any or all the schools of a school district and provide for the assignment of the pupils to one or more schools that may be established by the board within the district. The fact must not be lost sight of, however, that the school buildings in the suspended school district may not be sold for a period of four years and the residents in the vicinity of the schools have a right to have them reopened upon petition as stated in that portion of Section 7730, General Code, quoted above. In this connection, your attention is directed to an opinion of the Attorney General for 1928, at page 1281, also Opinions of the Attorney General for 1929, at pages 192 and 714, where questions relating to the suspension and consolidation of schools are discussed at considerable length.

I am therefore of the opinion, in specific answer to your question, that the School Board of Goshen Township has authority to suspend any one or all of the seven schools in the district and consolidate them into two centrally located schools, subject, of course, to the possibility of being compelled to re-establish any of the schools suspended, upon petition of the residents as authorized by Section 7730, General Code.

Respectfully,
GILBERT BETTMAN,
Attorney General.

3088.

CONTRACT OF TEACHER—DOCKED FOR ABSENCE FROM DUTY—
SUBJECT TO RULES AND REGULATIONS OF SCHOOL BOARD—
CONDITIONS NOTED.

SYLLABUS:

1. *When teachers contract with a board of education for service in the schools of the district, the contracts so made are subject to rules and regulations of the board lawfully made and adopted, whether or not the teachers so contracting are actually cognizant of such rules and regulations.*

2. *Where at the time a teacher is employed by a board of education there is in force a rule, lawfully made and adopted by the board, to the effect that teachers*