

If such person's legal residence was a township, such expenses should be paid from the poor fund if a levy has been made for such purpose—otherwise, from the general fund. If such person's legal residence was in a municipal corporation, then such expenses should be paid from the general fund of the municipality.

Respectfully,

GILBERT BETTMAN,

*Attorney General.*

4815.

DISSOLUTION OF VILLAGE SCHOOL DISTRICT AND UNION OF SAID DISTRICT WITH CONTIGUOUS RURAL SCHOOL DISTRICT—HOW POPULATION OF VILLAGE SCHOOL DISTRICT DETERMINED—RURAL SCHOOL DISTRICT DOES NOT ASSUME BONDED INDEBTEDNESS OF VILLAGE DISTRICT.

*SYLLABUS:*

1. *Upon the dissolution of a village school district containing a population of less than fifteen hundred, and its union with a contiguous rural school district, in pursuance of Section 4682-1, General Code, there is no right of remonstrance in the rural school district or an inhabitant thereof, and there is no way for the rural school district or its inhabitants to prevent the operation of the statute according to its terms.*

2. *Whether or not a village school district which seeks to dissolve and join with a contiguous school district in pursuance of Section 4682-1, General Code, contains a population of less than fifteen hundred, is a question of fact, to be determined by the interested authorities in any manner satisfactory to them.*

3. *Where a village school district is dissolved and joined to a contiguous rural school district in pursuance of Section 4682-1, General Code, the rural school district to which the village district is joined does not assume any portion of the bonded indebtedness of the village district so joined.*

4. *By reason of the provisions of Section 4689, General Code, and of Section 3514, General Code, the board of education of a village district which is dissolved in pursuance of the provisions of Section 4682-1, General Code, retains its identity for the purpose of collecting moneys due said dissolved school district and for the purpose of paying the debts thereof, and said village school district, although dissolved for other purposes, continues as a separate taxing district, and its board of education as its taxing authority must continue for the purpose only of levying a tax for the payment of such indebtedness as may exist, until such time as said indebtedness will have been paid.*

COLUMBUS, OHIO, December 15, 1932.

HON. CHARLES S. LEASURE, *Prosecuting Attorney, Zanesville, Ohio.*

DEAR SIR:—This will acknowledge receipt of your inquiry wherein you submit for my consideration three questions growing out of the dissolution of a village school district and its joinder with a contiguous rural school district in pursuance of Section 4682-1, General Code. These questions are:

“First: Can the rural district which has been selected by the village district into which the village district shall join upon dissolution, file a

remonstrance and thereby object to the acceptance of said village district, and if so, with whom shall such a remonstrance be filed and by whom shall the same be determined?

Second: Since the above quoted section of law contemplates only such school districts as contain a population of less than fifteen hundred, in determining such population, do they follow the last federal census, or can a new census be taken, and if so, what persons are included?

Third: If there is such a joinder of the village school district must the rural school district assume a portion of any bonded indebtedness of the village district in the same ratio as the tax duplicate of the rural district compares with that of the village district?"

Section 4682-1, General Code, reads:

"A village school district containing a population of less than fifteen hundred may vote at any general or special election to dissolve and join any contiguous rural district. After approval by the county board such proposition shall be submitted to the electors by the village board of education on the petition of one-fourth of the electors of such village school district or the village board may submit the proposition on its own motion and the result shall be determined by a majority vote of such electors."

It is well settled that the legislature of the state has full and exclusive power, subject to express constitutional limitations, and except as it may have delegated such power to a subordinate officer or agency, to create, organize, establish or lay out school districts, or to divide, unite, enlarge, change the boundaries of, or otherwise alter existing districts, or to provide for such creation or alteration, and unless otherwise expressly provided by the constitution, may exercise or provide for the exercise of such power without the request or assent, or even against the protest of the affected district or districts or of the inhabitants thereof. *Corpus Juris*, Vol. 56, page 197.

By the enactment of Section 4682-1, General Code, the legislature has provided for the dissolution of a village school district containing a population of less than fifteen hundred, and for its union with a contiguous rural school district merely by the affirmative vote of the electors residing in the village district. No provision is made for remonstrance by the rural district or the inhabitants thereof and it must therefore be held that the rural district has no power to prevent the joinder of the village if the procedure outlined by the statute is followed.

Article III, Section 6, of the Ohio Constitution confers upon the legislature full power and authority over the organization, administration and control of the public school system of the state. Whether the assent of the rural district or its inhabitants to the dissolution of a contiguous village district and of its being joined to the rural district must be obtained, is a question entirely of legislative policy. *State ex rel. vs. Schneider*, 103 O. S. 492.

A former Attorney General, in an opinion found in the Opinions of the Attorney General for 1915, page 1160, said, with reference to this matter:

"I am of the opinion \* \* \* that no action on the part of said board of education of said rural school district, in connection with said dissolution and union is either authorized or required and that said board of education of said rural school district has no power to prevent such dissolution or union."

Whether or not the village district has a population of less than fifteen hundred so as to come within the terms of the statute, is a question of fact. The legislature has not provided any means of determining this question of fact. Unless the village district was coterminous with the village, a federal census would not show its population, as the reports of the result of a federal census do not show the population of school districts. In such cases it would be necessary to determine whether or not the village district had a population of less than fifteen hundred by some other means. The proper method, in my opinion, would be such a special census as would satisfy the election authorities that a special election should be called or that the question should be submitted at a general election. If the result of such a special census was incorrect, and if that fact could be shown, the dissolution of the district and its union with a contiguous rural district could be enjoined. If the boundaries of the village district were coterminous with a village the results of the next preceding federal census would seem to be sufficient evidence to base a conclusion by the board that the district was qualified to hold an election, and, if at such election the proposition to dissolve and join with a contiguous rural district carried, the proceedings would be legal, unless and until it was shown affirmatively that the district at the time of the election had a population greater than fifteen hundred. In any case, the question as to the population of the district is a question of fact.

With reference to your third question it is necessary to consider the provisions of Section 4689, General Code, which reads as follows:

"The provisions of law relating to the power to settle claims, dispose of property or levy and collect taxes to pay existing obligations of a village that has surrendered its corporate powers, shall also apply to such village school district and the board of education thereof."

The law relating to the power to settle claims, dispose of property or levy and collect taxes to pay existing obligations of a village that has surrendered its corporate powers is governed by Section 3514, General Code, which provides as follows:

"Such surrender of corporate powers shall not affect vested rights or accrued liabilities of such village, or the power to settle claims, dispose of property, or levy and collect taxes to pay existing obligations, but after the presentation of such petition, council shall not create any new liability until the result of the election is declared, nor thereafter, if such result is in favor of the surrender of corporate powers. Due and unpaid taxes may thereafter be collected and all moneys or property remaining after such surrender shall belong to the school district embracing such village."

In the light of these statutes it was held by a former Attorney General in an opinion found in the reported Opinions of the Attorney General for 1915, page 554, as follows:

"Upon the dissolution of a village school district, the title to the school property of said district passes to and vests in the board of education of the contiguous rural school district to which such village school district is joined, but only the property within the limits of said village school district will be subject to a tax levy for the payment of any in-

debtedness incurred by the board of education of said village school district, and the board of education of said rural school district will have no authority in law to assume said indebtedness or to levy a tax to provide a fund for the payment thereof either upon the property within the limits of said village school district or upon the general duplicate of said rural school district.

If the levy for the payment of said indebtedness has not been made by said board of education of said village school district at the time of dissolution, said village school district as a separate taxing district, and its board of education as its taxing authority, must continue for the purpose only of levying a tax for the payment of such indebtedness until such time as said indebtedness will have been paid."

To the same effect are opinions found in the reported Opinions of the Attorney General for 1915, at pages 1053 and 1069; for 1917, at page 484. In this latter opinion it is held:

"By reason of the provisions of this Section (Section 4689) which applies the provisions of Section 3514, General Code, to the school districts which have been dissolved in the manner provided by law, it is held that where a school district is dissolved under Section 4682-1, General Code, the board of education of such school district retains its identity for the purpose of collecting moneys due said dissolved school district and for the purpose of paying the debts thereof."

In specific answer to your questions therefore, I am of the opinion:

1. Upon the dissolution of a village school district containing a population of less than fifteen hundred and its union with a contiguous rural school district in pursuance of Section 4682-1, General Code, there is no right of remonstrance in the rural school district or an inhabitant thereof, and there is no way for the rural school district or its inhabitants to prevent the operation of the statute according to its terms.

2. Whether or not a village school district which seeks to dissolve and join with a contiguous school district in pursuance of Section 4682-1, General Code, contains a population of less than fifteen hundred, is a question of fact, to be determined by the interested authorities in any manner satisfactory to them.

3. Where a village school district is dissolved and joined to a contiguous rural school district in pursuance of Section 4682-1, General Code, the rural school district to which the village district is joined does not assume any portion of the bonded indebtedness of the village district so joined.

Respectfully,

GILBERT BETTMAN,  
*Attorney General.*

4816.

APPROVAL, BONDS OF HUDSON TOWNSHIP RURAL SCHOOL DISTRICT, SUMMIT COUNTY, OHIO—\$4,400.00.

COLUMBUS, OHIO, December 15, 1932.

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