

tion a copy of such book or books, together with the published list price thereof, and the commission, consisting of the governor, secretary of state and superintendent of public instruction, fixes the maximum price (not exceeding seventy-five per cent of such list price) at which such book or books may be sold to or purchased by boards of education; and if after notice of such price, such publisher notifies the superintendent in writing that he accepts such price, and agrees in writing to furnish such book or books during a period of five years at that price, such proceedings constitute a contract between such publisher and the commission for the benefit of boards of education of the state, whereby such publisher becomes bound to furnish such book or books to boards of education for the full period of five years from the date of such written notice and agreement, at a price not exceeding that so fixed by the commission and accepted by such publisher.

(2) Boards of education are limited in their selection of books to be used in the public schools of this state to the books so filed with said commission, but books so selected and adopted must be adopted for a period of five years, subject to the right to change such adoption by the consent, at a regular meeting, of five-sixths of the members thereof.

(3) It is the duty of boards of education before adopting any of such books to make an effort to secure from such publishers the desired books at less than the maximum so fixed by the commission.

(4) Within the period of five years from his acceptance of a maximum price fixed by the commission for any book, a publisher thereof may not refile the same book with the superintendent of public instruction and have a higher maximum price fixed therefor.

Respectfully,
 JOHN G. PRICE,
Attorney-General.

1069.

**BOARD OF EDUCATION—HAS CONTROL OF SCHOOL BUILDINGS—HAS
 AUTHORITY TO REGULATE MEETINGS AND ENTERTAINMENTS
 HELD OUTSIDE OF SCHOOL HOURS.**

A board of education has the entire control and management of the schools and the school buildings and grounds in its district, and such board of education is within its statutory authority in exercising its discretion as to the opening of such school houses for meetings and entertainments held outside of school-hours.

COLUMBUS, OHIO, March 12, 1920.

HON. LEWIS F. STOUT, *Prosecuting Attorney, Wapakoneta, Ohio.*

DEAR SIR:—Acknowledgment is made of the receipt of your request for an opinion upon the following statement of facts:

“Several of the residents in a certain district in Jackson township, this county, have made application to the board of education for permission to use one of the school houses to give a public dance. The board of education has refused this permission.

“Would you please give me your opinion as to what the rights of the parties are under section 7622-1?”

Section 7622-1, which you cite, reads as follows:

"That upon application of any responsible organization, or of a group of at least seven citizens, all school grounds and school houses, as well as all other buildings under the supervision and control of the state, or buildings maintained by taxation under the laws of Ohio, shall be available for use as social centers for the entertainment and education of the people, including the adult and youthful population, and for the discussion of all topics tending to the development of personal character and of civic welfare. Such occupation, however, should not seriously infringe upon the original and necessary uses of such properties. The public officials in charge of such buildings shall prescribe such rules and regulations for their occupancy and use as herein provided as will secure a fair, reasonable and impartial use of the same."

In the above section it is noted that the board of education in charge of the school buildings shall prescribe such rules and regulations for the occupancy and use as will secure a reasonable use of the same. Section 7622-1, however, is supplemented further by section 7622-3 G. C., which defines the uses that may be made of public school buildings upon receiving proper permit from the board of education.

Section 7622-3 reads as follows:

"The board of education of any school district may, subject to such regulation as may be adopted by such board, permit the use of any school house and rooms therein and the grounds and other property under its control when not in actual use for school purposes, for any of the following purposes:

1. For giving instructions in any branch of education, learning or the arts.
2. For holding educational, civic, social or recreational meetings and entertainments, and for such other purposes as may make for the welfare of the community. Such meetings and entertainments shall be non-exclusive and open to the general public.
3. For public library purposes, as a station for a public library, or as reading rooms.
4. For polling places, for holding elections and for the registration of voters, for holding grange or similar meetings."

In the above section it is noted that the board of education of any school district may permit the use of any school house and rooms therein, and there is nothing mandatory about requiring a board of education to permit the use of school houses for any of these purposes mentioned in section 7622-3 G. C. if the board of education, in its discretion, deems otherwise.

Illustrating the fact that it was intended by the general assembly that boards of education should have some discretion in the matter as to what the school buildings and grounds under their control could be used for, it is pointed out that section 7622-1 and section 7622-3, though adopted in 106 O. L., p. 552, are but supplementary to the main section 7622 G. C., which was passed in 91 O. L., p. 44. Since the general section to which the other two sections (7622-1 and section 7622-3 G. C.) are supplementary, was not repealed, it is still the law and clearly points out that it was the intent of the general assembly that the board should have discretion as to what uses should be made of the school houses in the districts when not in use for public school purposes. Thus we find that the main section 7622 G. C. reads as follows:

"When, in the judgment of a board of education, it will be for the advantage of the children residing in any school district to hold literary societies, school exhibitions, singing schools, religious exercises, select or normal schools, the board of education shall authorize the opening of the school-houses for such

purposes. The board of education of a school district in its discretion may authorize the opening of such school-houses for any other lawful purposes. But nothing herein shall authorize a board of education to rent or lease a school-house when such rental or lease in any wise interferes with the public schools in such district, or for any purpose other than is authorized by this chapter."

The above section clearly gives the board of education discretion as to the authorizing of the opening of school houses for other lawful purposes than holding public school therein, and upon this section the attorney-general, in opinion No. 197, issued April 3, 1915, said:

"The board of education has no authority in law to rent a school building or part thereof, to a secret society for the purpose of holding lodge sessions, and such social functions and entertainments of such society as are not open to all persons in the community on equal terms or which will not, *in the judgment of the board of education, benefit the people of the community.*"

Section 7690 G. C. reads in part as follows:

"Each board of education shall have the management and control of all the public schools of whatever name or character in the district. * * *"

Attention is invited to the recent decision of the supreme court of Ohio in the case of Brannon et al. vs. Board of Education, 99 O. S., ———, appearing in the Ohio Law Reporter in the issue of October 20, 1919, wherein the second and third branches of the syllabus read:

"2. A court has no authority to control the discretion vested in a board of education by the statutes of this state, or to substitute its judgment for the judgment of such boards, upon any question it is authorized by law to determine."

3. A court will not restrain a board of education from carrying into effect its determination of any question within its discretion except for an abuse of discretion or for fraud or collusion on the part of such board in the exercise of its statutory authority."

Upon the question at hand it is therefore the opinion of the Attorney-General that a board of education has the entire control and management of the schools and the school buildings and grounds in its district, and such board of education is within its statutory authority in exercising its discretion as to the opening of such school houses for meetings and entertainments held outside of school hours.

Respectfully,

JOHN G. PRICE,
Attorney-General.