

and expense paid by the township to more than ten per cent, without an agreement with the township trustees.

Section 1214, as re-enacted, provides as follows:

"Except as otherwise provided in this chapter, the county shall pay twenty-five per cent of all cost and expense of the improvement. Ten per cent of the cost and expense of such improvement, except the cost and expense of bridges and culverts, shall be apportioned to the township or townships in which such road is located. If the improvement lies in two or more townships, the amount to be paid by each shall be apportioned according to the number of lineal feet of the improvement lying in each township. Five per cent of the cost and expense of the improvement, excepting therefrom the cost and expense of bridges and culverts, shall be a charge upon the property abutting on the improvement, provided the total amount assessed against any owner of abutting property shall not exceed twenty per cent of the valuation of such abutting property for the purposes of taxation. * * * The county commissioners shall be required to assume on behalf of the county all that part of the cost and expense of an improvement not assumed by or assigned by law to the state or to the township and not specially assessed."

The latter part of this section requires the county to assume all that part of the cost and expense not assumed or assigned by law to the state or to the township. The part assigned by law to the township is ten per cent, and unless the township trustees should assume an additional amount of such cost, the township would not be required to pay more than the amount assigned by law.

You are therefore advised that the county commissioners may not increase the cost and expense of an improvement under section 1214 to more than the amount assigned by law, unless the township trustees should agree to such increase.

Respectfully,

C. C. CRABBE,
Attorney General.

2840.

BOARD OF EDUCATION—QUESTIONS CONCERNING THE ADOPTION OF TEXT BOOKS, DISCUSSED AND ANSWERED.

SYLLABUS:

(1) *Under the provisions of section 7713, General Code, a board of education, by a majority vote, would have authority, after the expiration of any five year adoption period, to make a new adoption, and if such authority is not exercised between the first Monday of February and the first Monday in August, as directed in said section, such authority may, if the best interests of the schools in question require it, be exercised any time after such five year adoption period has expired, the provision of the statute in question being directory and not mandatory.*

(2) *The five-sixths vote of the board of education provided in said section is*

only required when a change or substitution is made during the life of any five year adoption period.

COLUMBUS, OHIO, October 6, 1925.

HON. VERNON M. REIGEL, *Director of Education, Columbus, Ohio.*

DEAR SIR:—This will acknowledge receipt of your communication of recent date in which you submit for my opinion the following inquiry :

“After a five year adoption of text books, under section 7713, has expired, can a board of education adopt books at any time except between the dates of the first Monday in February and the first Monday in August? If this adoption involves changes in text books on which the five-year adoption period has expired, how many votes does it take to make the change? Does it require simply a majority vote between the first Monday in February and the first Monday in August, and five-sixths after that time?”

Section 7713 of the General Code, to which you refer, reads as follows :

“At a regular meeting, held between the first Monday in February and the first Monday in August, each board of education shall determine by a majority vote of all members elected the studies to be pursued and which of such text-books so filed shall be used in the schools under its control. But no text books now in use or hereafter adopted shall be changed, nor any part thereof altered or revised, nor any other text book be substituted therefore for five years after the date of the selection and adoption thereof, as shown by the official records of such boards, except by the consent at a regular meeting, of five-sixths of all members elected thereto. Books so substituted shall be adopted for the full term of five years.”

This section provides for a five year adoption of text books by boards of education, and further provides that no text books now in use or hereafter adopted, shall be changed for five years after the date of adoption, except by a five-sixths vote of all members of the board. Under this provision a board of education by a majority vote would have authority after the expiration of any five year adoption period to make a new adoption, and if such authority is not exercised between the first Monday in February and the first Monday in August, as directed by the statute, such authority may, if the best interests of the schools of the districts in question require it, be exercised any time after such five year adoption period expires, the provision of the statute in question being directory and not mandatory.

In other words, it is not believed a failure to act within the six months period indicated by the statute would bar action at a later date if the board of education in its discretion believes such action necessary and for the best interests of the schools.

The five-sixths vote is only required when a change or substitution is directed during the life of any five year adoption period.

Respectfully,
C. C. CRABBE,
Attorney General.