

For the reason then that the legislature has by the appropriation act authorized the contribution in question and appropriated money therefor, it is my opinion that the sums of money in question may lawfully be paid by your Board to the Conference of Embalming Examining Boards of the United States as membership dues.

Respectfully,
EDWARD C. TURNER,
Attorney General.

771.

STATE BOARD OF VOCATIONAL EDUCATION—CONCERNING THEIR
AUTHORITY TO EXPEND FUNDS ALLOTTED TO THE STATE OF
OHIO BY THE FEDERAL GOVERNMENT FOR VOCATIONAL EDU-
CATIONAL PURPOSES.

SYLLABUS:

The State Board of Vocational Education is authorized to expend funds allotted to the State of Ohio by the Federal Government for vocational educational purposes, and also funds appropriated by the Legislature of Ohio for the same purpose, for the promotion of vocational education as a part of the public school system of the State. In so doing, it has authority to provide and pay public school teachers for the teaching of vocational subjects to classes conducted as part-time classes for persons, who have entered upon employment as defined by Section 11 of the Act of Congress of 1917, U. S. C., page 609, at shops in class rooms adjoining such shops, in buildings near such shops or elsewhere.

COLUMBUS, OHIO, July 22, 1927.

HON. J. L. CLIFTON, *Director, Department of Education, Columbus, Ohio.*

DEAR SIR:—This will acknowledge receipt of a communication from your predecessor, Mr. Riegel, requesting my opinion as follows:

“The State Board for Vocational Education, since the enactment of the Smith-Hughes National Vocational Law by Federal Congress in 1917, has encouraged Part-time Trade Extension classes for apprentices in the various trades and industries. The Federal Board, in interpreting the law, indicates on pages 28 and 29 of their Statement of Policies, Bulletin Number One, copy attached, that permission is given to conduct Part-time schools or classes for persons over fourteen years of age without upper age limit, provided that the instruction given is designed for and suitable to enlarge the civic or vocational intelligence of workers over fourteen and less than eighteen years of age. Further, the Federal Board has indicated that such Part-time classes may be carried on at the school, in the shop, in classrooms adjoining the shop, in a building near the shop, or elsewhere.

Now comes a communication from the Cleveland Public School authorities in regard to this particular problem. An effort has been made during the past few years to get the open shop and union people of the printing trade of that city together on a committee so that the Cleveland School in cooperation with the State Board for Vocational Education might train both groups of apprentices. Such a plan has been in effect for a number of years in connection with the building trade, and the employer and the union are

working side by side in providing training for the apprentices in bricklaying, plumbing, sheet metal, carpentry, and other types of building trade courses.

It appears that the union in Cleveland has built a printing school and equipped it. Now they request the Cleveland City Board of Education to send them a teacher part-time to train their apprentice classes. The open shop groups were offered a similar cooperation, even so far that the Cleveland Trade School set up a plant for the training of open shop apprentices. By such a device, Cleveland would be training both groups of apprentices, thus not discriminating against any one group. The question is raised now whether it is illegal to send any teacher of the public school system to a factory for the training of apprentices, as would be the case if a teacher were sent to the building erected and equipped by the printing union organization of Cleveland. Therefore, would it not be possible to conduct the two types of printing schools under the Cleveland Board of Education, for under such a plan any apprentice of the printing trade in Cleveland could be admitted, the union apprentices under the instruction of a teacher sent to the union's building by the Board of Education, and the open shops apprentices under the instruction of a teacher in the Cleveland Trade School equipped and owned by the Cleveland Board of Education. In that way, we are not restricting the membership of our apprentice classes to any one group, but we are offering both groups instruction even though in segregated classes."

The so-called Smith-Hughes National Vocational Law enacted by Congress in 1917, created a federal board for vocational education, authorized to make studies, investigations and reports with particular reference to their use in aiding the states in the establishment of vocational schools and classes and in giving instruction in agricultural, trades and industry, commerce and commercial pursuits and home economics.

The act appropriated funds and made allotment thereof among the several states for the purpose of cooperating with the respective states in paying the salaries of teachers, supervisors and directors of agricultural subjects and teachers of trade, home economics and industrial subjects and in the preparation of teachers of agricultural, trade, industrial and home economics subjects.

The act provided that, in order for any state to receive the benefits of the appropriations so made, the state should through its legislative authority accept the provisions of the act and designate or create a state board consisting of not less than three members with the necessary power to cooperate, as provided by the act, with the Federal Board for Vocational Education in the administration of the law. Further provision was made to the effect that:

"In order to receive the benefits of the appropriation for the salaries of teachers, of trade, home economics and industrial subjects a state board shall provide in its plan for trade, home economics and industrial education that such education shall be in schools or classes under public supervision or control."

Thereafter, the Legislature of Ohio accepted the provisions of the Act of Congress hereinbefore referred to by an Act which was carried into the code as Sections 567-1, et seq. This act created the State Board of Education consisting of seven members and vested in it full power to cooperate with the federal board for vocational education in the administration of the aforesaid act of Congress and the funds thereby appropriated and allotted to the State of Ohio for the promotion of vocational education, together with full power to administer all laws enacted and funds provided by the Legislature of Ohio for the same purpose. The powers and duties of the State Board

of Education have since been transferred to the State Board of Vocational Education (Section 154-49, General Code).

The powers and duties of the State Board of Education are set out in Section 367-5, General Code, which reads in part as follows:

"The state board of education shall have all necessary authority to cooperate with the federal board for vocational education in the administration of said act of congress and of any legislation pursuant thereto enacted by the State of Ohio, and in the administration of the funds provided by the federal government and the State of Ohio under the provisions of this act, for the promotion of vocational education in agriculture, commercial, industrial, trade, and home economics subjects * * *. They shall have full authority to formulate plans for the promotion of vocational education in such subjects as an essential and integral part of the public school system of education in Ohio; and to provide for the preparation of teachers of such subjects, and to expend federal and state funds appropriated under the provisions of this act for any purposes approved by the federal board for vocational education.
* * *"

In accordance with the authority vested in the State Board of Vocational Education by virtue of the foregoing statute, plans have been formulated for the promotion of vocational education as a part of the common-school system of the state, the carrying out of the details of such plans being delegated to the local boards of education who conduct trade schools and other vocational school activities as a part of their local school systems.

It will be observed that broad powers are granted to the state board by Section 367-5, supra. It is granted "full authority to formulate plans for the promotion of vocational education in such subjects as an essential and integral part of the public school system of education in Ohio" and it is authorized to expend federal and state moneys which have been appropriated for vocational education "*for any purpose approved by the federal board for vocational education.*"

The Federal Law, Section 11, U. S. C., page 609, recognizes two classes of persons who are entitled to the benefits of the instruction provided for vocational education, those "who have entered upon employment" and those "who have not entered upon employment."

The Federal Board in its Statement of Policies, in Bulletin No. 1, states on page 28:

"Stimulated by a desire to meet the needs of a large group of workers who are entering upon employment without adequate preparation, as well as of those already at work, the Federal Board passed the following resolution interpreting the phrase 'who have entered employment':

Where persons definitely scheduled for employment in a trade or industrial occupation, by a written agreement with the employer, are given before being employed instruction in a class fitting them for advantageous entrance to such trade or industrial occupation, such class may be considered as a part-time class and Federal moneys may be used for its support, under the provisions of Section 11 of the vocational education act. Such classes may also be open to those already employed, who may receive better preparation in the occupation they are already following, or promotional training for a new occupation.

Such part-time classes may be carried on at the school, in the shop, in classrooms adjoining the shop, in a building near the shop, or elsewhere."

By personal interview I am informed that the employer in question has provided and equipped a school room and offers it to the board of education of the city of Cleveland for its use in connection with its vocational activities.

It is quite apparent from the statement of policy of the Federal Board that instruction in Vocational Education and training may be carried on in a school building, in a shop or in a class room adjoining a shop, or a building near a shop, or elsewhere. Said work, however, must be under the direction and control of the board of education, and must be open to all who wish to avail themselves of the instruction given therein. No one could be refused admittance thereto because of his membership or non-membership in any organization.

It is therefore my opinion that the State Board of Vocational Education is authorized to expend funds allotted to the State of Ohio by the Federal Government for vocational educational purposes, and also funds appropriated by the Legislature of Ohio for the same purpose, for the promotion of vocational education as a part of the public school system of the State. In so doing, it has authority to provide and pay public school teachers for the teaching of vocational subjects to classes conducted as part-time classes for persons who have entered upon employment as defined by Section 11 of the Act of Congress of 1917, U. S. C., page 609, at shops, in class rooms, adjoining such shops, in buildings near such shops, or elsewhere.

Respectfully,
EDWARD C. TURNER,
Attorney General.

772.

GENERAL CORPORATION ACT—ITS EFFECT ON PENDING LEGISLATION.

SYLLABUS:

New general corporation act considered with relation to its effect upon pending corporate action.

COLUMBUS, OHIO, July 25, 1927.

HON. CLARENCE J. BROWN, *Secretary of State, Columbus, Ohio.*

DEAR SIR:—This will acknowledge receipt of your recent communication in which you ask several questions with relation to the effect of the new general corporation act upon various corporate proceedings pending at the time of the effective date of that act.

Preliminary to a consideration of the specific questions, I direct attention to section 26 of the General Code of Ohio, which is as follows:

“Whenever a statute is repealed or amended, such repeal or amendment shall in no manner affect pending actions, prosecutions, or proceedings, civil or criminal; and when the repeal or amendment relates to the remedy, it shall not affect pending actions, prosecutions, or proceedings, unless so expressed, nor shall any repeal or amendment affect causes of such action, prosecution or proceeding, existing at the time of such amendment or repeal, unless otherwise expressly provided in the amending or repealing act.”