

tion of a salary schedule for these districts and a determination of a transportation schedule upon which are based the distribution of the 2.65 mills tax levy provided for by Section 7575, General Code, among these districts, is final."

Under an earlier form of the statute which was not materially different so far as the question here under consideration is concerned, it was held by a former Attorney General, in an opinion which is reported in Opinions of the Attorney General for 1920, page 394, that:

"In determining the basis of the distribution attributable to salaries paid teachers, the number of teachers provided for and the salaries provided for such number of teachers as fixed prior to August 1 of any year for the succeeding school year are to be taken."

I am of the opinion, in specific answer to your question that the distribution of the proceeds of the 2.65 mills tax levy authorized by Section 7575 of the General Code, in so far as the distribution attributable to teachers and other employes in the school districts mentioned in your inquiry during the school year 1932-33 is concerned, should be based on the salary schedule adopted by the county board of education, and the number of those teachers and employes fixed by the said board in pursuance of its survey conducted by authority of Section 7600, General Code, prior to April 1, 1932, and so certified to the several districts, and that this distribution will not be affected by reason of the fact that during the school year it is found necessary to suspend the schools on account of lack of funds to operate them, in consequence of which certain teachers and employes will receive less than eight hundred dollars per year. The county superintendent of schools has nothing to do with the matter except as clerk of the county board of education. He is without any power whatever to change the basis of distribution of the county educational equalization fund as fixed by the county board's survey and the salary schedule adopted by it. The distribution is made by the county auditor.

Respectfully,
JOHN W. BRICKER,
Attorney General.

221.

CLERK PRO TEMPORE—BOARD OF EDUCATION—MAY NOT SIGN CHECKS OR DISBURSE PUBLIC FUNDS.

SYLLABUS:

A clerk pro tempore of the board of education selected in accordance with section 4753, General Code, may not during the disability of the clerk sign orders on the depository for disbursement of funds under section 4768, nor may he sign checks issued against a payroll account in accordance with section 7612-1 of the General Code.

COLUMBUS, OHIO, March 17, 1933.

Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

GENTLEMEN:—Acknowledgment is made of your recent communication, which reads as follows:

"You are respectfully requested to furnish this department your written opinion upon the following:

Section 4753 of the General Code provides that if the president or clerk is absent at any meeting of the board of education, the members present shall choose one of their number to service in his place pro tempore.

Section 4768 of the General Code provides that no disbursements shall be made from a depository except upon an order signed by the treasurer and by the president or vice president, and countersigned by the clerk of the board of education.

QUESTION 1: May the clerk pro tempore, selected in accordance with the provisions of section 4753, during the disability of the clerk, sign orders on the depository for the disbursement of funds in accordance with section 4768?

QUESTION 2: May such clerk pro tempore sign checks issued against a pay roll account in the depository bank, which checks are required, by section 7612-1 of the General Code, to be signed by the clerk?"

Section 4747, General Code, provides that each board of education shall meet on a specific date and elect a president, vice president and clerk. It further provides that the clerk may or may not be a member of the board.

Section 4754 of the General Code states the duties of the clerk at the meetings of said board as follows:

"The clerk of the board of education shall record the proceedings of each meeting in a book to be provided by the board for that purpose, which shall be a public record. The record of proceedings at each meeting of the board shall be read at its next succeeding meeting, corrected, if necessary, and approved, which approval shall be noted in the proceedings. After such approval, the president shall sign the record and the clerk attest it."

The clerk has other duties imposed upon him in his official capacity as can be seen by sections 4768 and 7612-1 of the General Code, but these are all functions exercised outside of the meeting proper. Section 4753, General Code, reads as follows:

"If the president or clerk is absent at any meeting of the board of education, the members present shall choose one of their number to serve in his place pro tempore. If both the president and clerk are absent, both places shall be filled. On the appearance of either at the meeting after his place has been so filled, he shall immediately assume the duties of his office."

Bouvier's dictionary defines "pro tempore" thus: "For the time being; temporary." It is apparent that section 4753, supra, only authorizes the members of the board of education to elect a clerk pro tempore for a particular meeting with the duty as specified in section 4754, General Code, of recording the proceedings of that meeting and reading the records of proceedings at the board's last meeting. There is nothing in this section or any other section giving him any other or broader powers. Provisions have been made for the absence or disability of practically every officer of the state government. It has been provided who shall take the place of the absent officer and what his powers and duties shall be.

Such provisions relate only to temporary absences and in no case do they apply to permanent disability or absence.

It is apparent, since the legislature has specified the powers and duties of all officers pro tempore, that such officers would have only those granted to them. In section 4753, General Code, the clerk pro tempore may serve and exercise the duties of the clerk merely during the meeting for which he was elected. Sections 4768 and 7612-1, General Code, read as follows:

"Sec. 4768. No treasurer of a school district shall pay out any school money except on an order signed by the president or vice-president and countersigned by the clerk of the board of education, and when such school moneys have been deposited as provided by sections 7604-7608, inclusive, no money shall be withdrawn from any such depository, except upon an order signed by the treasurer and by the president or vice-president and countersigned by the clerk of the board of education; and no money shall be paid to the treasurer of the district other than that received from the county treasurer, except upon the order of the clerk of the board, who shall report the amount of such miscellaneous receipts to the county auditor each year immediately preceding such treasurer's settlement with the auditor."

"Sec. 7612-1. In city school districts the salaries of all employes and officers of the board of education and all payrolls may be paid in such manner as the board of education may authorize. To provide money for such payment if made in cash, the president and clerk of the board of education shall upon receipt of the proper payroll and warrant, issue checks upon the depositories payable to the treasurer for the aggregate amounts stated in such payrolls. The treasurer may thereupon make payments to the employes and officers in cash, or the board of education may provide that the sums called for by the checks aforementioned, instead of being paid to the treasurer, shall be transferred to special payroll accounts established in depositories by the board of education upon such terms with the respective banks as to interest upon daily cash balances in said special payroll accounts, and under such other conditions as the board of education may prescribe. In the event such special payroll accounts are established by a board of education, such accounts may be drawn against by check of the treasurer of the board according to such procedure as the board of education may prescribe. In the event a city board of education creates a payroll account, any bond or bonds given by the depository under the provisions of section 7605 of the General Code shall also be for the protection of such special payroll account as may be deposited in said bank. The aggregate of all board of education deposits in a bank, including special payroll accounts as herein authorized, must not exceed the aggregate of the bond or bonds given by the bank. The aggregate of all deposits in a bank, including special payroll accounts, shall be subject to the limitations of section 7604 of the General Code."

Both of these sections require certain acts to be done by the clerk of the board of education. These sections make no provisions for these acts to be done by any other individual or member of the board.

In specific answer to your question, it is my opinion that a clerk pro tempore of the board of education selected in accordance with section 4753, General Code,

may not during the disability of the clerk sign orders on the depository for disbursement of funds under section 4768, nor may he sign checks issued against a payroll account in accordance with section 7612-1 of the General Code.

Respectfully,

JOHN W. BRICKER,

Attorney General.

222.

APPROVAL, NOTES OF BOARDMAN RURAL SCHOOL DISTRICT, MAHONING COUNTY, OHIO—\$23,000.00.

COLUMBUS, OHIO, March 17, 1933.

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

223.

APPROVAL, NOTES OF SUGARCREEK TOWNSHIP RURAL SCHOOL DISTRICT, GREENE COUNTY, OHIO—\$8,066.00.

COLUMBUS, OHIO, March 17, 1933.

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

224.

APPROVAL, NOTES OF TIVERTON TOWNSHIP RURAL SCHOOL DISTRICT, COSHOCTON COUNTY, OHIO—\$2,984.00.

COLUMBUS, OHIO, March 17, 1933.

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

225.

APPROVAL, NOTES OF BENNINGTON TOWNSHIP RURAL SCHOOL DISTRICT, MORROW COUNTY, OHIO—\$4,130.00.

COLUMBUS, OHIO, March 17, 1933.

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