

I have carefully examined said leases, find them correct in form and legal, and am therefore returning the same with my approval endorsed thereon.

Respectfully,

C. C. CRABBE,
Attorney General.

1291.

SCHOOLS—AUTHORITY OF BOARD OF EDUCATION UNDER SECTION
7821-2 G. C.

SYLLABUS:

Two-year and three-year primary special elementary and high school certificates which are not re-renewals of certificates granted prior to May 17, 1914, may not now be renewed under section 7821-2 G. C.

COLUMBUS, OHIO, March 20, 1924.

HON. VERNON M. RIEGEL, *Director, Department of Education, Columbus, Ohio.*

DEAR SIR:—You have requested the opinion of this department on the following question:

“Is, or is not, the power implied in section 7821-2 for local county or city boards to renew two or three-year certificates that were permitted to expire without renewal?”

Section 7821-2 G. C. was amended in 109 O. L. 189 and reads as follows:

“Two-year and three-year primary, special elementary and high school certificates which are re-renewals of certificates granted prior to May 17, 1914, may be renewed an indefinite number of times by local boards of examiners upon proof that the holders continue to teach successfully.”

Prior to amendment section 7821-2 G. C. read thus:

“All two-year and three-year primary, elementary and high school certificates now granted shall continue in force until the end of their terms and may be renewed by county boards of examiners on proof of five years' successful teaching experience.”

Comparing these two statutes it is evident that the later enactment intends that only those certificates “which are re-renewals of certificates granted before May 17, 1914, may be renewed” by local boards of examiners under the condition imposed in the section.

Those teachers who might have had their certificates renewed but for some reason did not secure such renewals may not now have the privilege extended by the amended section. The language clearly so states. Had the legislature intended that such teachers could have their certificates renewed appropriate language could easily have been used to that effect. The legislature found no difficulty in section 7821-1 G. C., as to five and eight-year certificates when it said:

"Five-year and eight-year certificates that were permitted to expire without application for renewal at the time of such expiration may be renewed by the superintendent of public instruction upon proof that the holders thereof have taught successfully for five years."

This part of that section was placed therein in the same act where the amendment occurs in 109 O. L. 189 to section 7821-2 G. C.

The conclusion, therefore, follows that your question is answered in the negative by force of the provisions of the statutes as above quoted.

Respectfully,

C. C. CRABBE,

Attorney General.

1292.

BOARD OF EDUCATION—HOW VACANCY IS FILLED.

SYLLABUS:

A vacancy in a county board of education can only be filled in accordance with the provisions of section 4748, which provides that such vacancy shall be filled by a majority vote of all the remaining members of the board.

COLUMBUS, OHIO, March 20, 1924.

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

DEAR SIR:—Yours of recent date received, in which you submit the following inquiry:

"There is a vacancy in the county board of education which has existed for a long time. The board is dead-locked and cannot make a choice of a fifth member. Under such circumstances how many this vacancy be filled?"

The question you present is covered by sections 4729 and 4748, General Code of Ohio, which read as follows:

"*Sec. 4729.* At the regular election of township and municipal officers in 1921 the qualified electors of each county school district in the state shall elect three members of the county board of education to succeed the three members having the shortest time to serve when this act goes into effect and to serve for four years from the third Saturday of January, 1922, and every four years thereafter their successors shall be elected in like manner for a term of four years. At the regular election of township and municipal officers in 1923 the qualified electors of each county school district shall elect two members of the county board of education to succeed the two remaining members of the board not chosen by popular vote and to serve for four years from the third Saturday of January, 1924, and every four years thereafter their successors shall be elected in like manner to serve for a term of four years."

"*Sec. 4748.* A vacancy in any board of education may be caused by death, non-residence, resignation, removal from office, failure of a person