

by the accused, the justice of the peace does not have jurisdiction to dispose of the case but he should, on the plea of guilty by the accused, if he has probable cause to believe the accused is guilty of the offense, bind the defendant over to the Common Pleas Court to be disposed of by the consideration of a grand jury.

Respectfully,

EDWARD C. TURNER,
Attorney General.

2443.

PUBLIC BUILDING—CONTROL OF JOINT VILLAGE AND TOWNSHIP
HALL, DISCUSSED.

SYLLABUS:

The control, management and duty of maintenance of a town hall or public building erected by a township and a village jointly are vested in the board of township trustees and in the council of the village.

COLUMBUS, OHIO, August 1, 1928.

HON. ERNEST M. BOTKIN, *Prosecuting Attorney, Lima, Ohio.*

DEAR SIR:—This will acknowledge receipt of your recent communication, which reads as follows:

“When a township and a village erect a town hall or public building under authority of Sections 3399 to 3402, inc., General Code, who has the control, management and duty of maintenance of such hall or building.”

The provisions of the General Code relative to the construction of town halls by townships and the union of townships and villages in the joint construction of two halls and other public buildings are found in Sections 3395 to 3402, inclusive, General Code. The specific sections which contain the authority for the union of villages and townships in the construction of such town halls and other public buildings are Sections 3399 to 3402, inclusive, General Code. Section 3399 provides as follows:

“The electors of a township in which a village is situated, and the electors of such village may if both so determine, as hereinafter provided, unite in the enlargement, improvement or erection of a public building.”

Section 3400 provides for applications to be signed by not less than twenty-five resident freeholders of the township and not less than twenty-five resident freeholders of the village; Section 3401 provides for submitting the question to the electors at the next general township and municipal election; and Section 3402 provides:

“If at such election two-thirds of the electors of the township and of the village voting, vote in favor of such improvement, the trustees of such township and the council of the village shall jointly take such action as is necessary to carry out such improvement.”

There is no specific provision among the sections above referred to as to what officers, board or other body shall have the control and management of a town hall or

public building erected by a township and a village jointly. Section 3397, General Code, makes provision for the management and control of a town hall owned by a township. Said section provides:

“After such affirmative vote, the trustees may make all needful contracts for the purchase of a site, and the erection or the improvement or enlargement of a town hall. They shall have control of any town hall belonging to the township, and from time to time, may lease so much thereof as may not be needed for township purposes, by the year or for shorter periods, to private persons, or for lectures or exhibitions, in all cases having the rent paid in advance or fully secured. The rents received may be used for the repair or improvement of the hall so far as needed, and the balance for general township purposes.”

While there is no specific statutory provision for the management and control of a town hall or public building erected by a township and a village jointly, in my opinion Section 3397, *supra*, contains sufficient authority for vesting such management and control in the township trustees, so far as the township is concerned.

While there is no specific provision as to what officer, board or other body shall represent the village in the management and control of a joint town hall, your attention is directed to Section 4240, General Code, which provides:

“The council shall have the management and control of the finances and property of the corporation, except as may be otherwise provided, and have such other powers and perform such other duties as may be conferred by law.”

In view of the foregoing and in specific answer to your question, it is my opinion that the control, management and duty of maintenance of a town hall or public building erected by a township and a village jointly are vested in the board of township trustees and in the council of the village.

The above conclusion is in accord with the conclusions reached by one of my predecessors in an opinion found in the Annual Report of the Attorney General for 1912, Vol. 2, p. 1361, the syllabus of which reads as follows:

“The control of a hall built jointly by the township trustees and a village, is in the hands of these joint parties and when a majority of both bodies so agree, the village may rent a room in said hall for jail purposes.”

Respectfully,

EDWARD C. TURNER,
Attorney General.

2444.

TUITION—PAYMENT OF—NON-RESIDENT HIGH SCHOOL PUPIL—NOTICE TO DISTRICT BOARD OF EDUCATION.

SYLLABUS:

1. *A child eligible to admission to a high school, who resides in a school district which does not maintain a high school and which does not contract with another board of education which maintains a high school in the same civil township or in an adjoining township and three miles from where the child lives for the schooling of said child, may select the high school to be attended and the board of education of the district in which the*