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CENTRALIZATION, DISTRICT SCHOOL—WHEN BOARD OF EDUCATION, VILLAGE OR RURAL SCHOOL DISTRICT, ADOPTS RESOLUTION AND CERTIFIES SAME TO COUNTY BOARD OF ELECTIONS, IT IS DUTY OF SUCH BOARD TO PROCURE BALLOTS AND CONDUCT ELECTION FOR CENTRALIZATION—STATUS, SCHOOLS CONDUCTED IN ONE CENTRAL LOCATION IN DISTRICT—SECTION 4726 G. C.

SYLLABUS:

When a board of education in a village or rural school district adopts a resolution for the submission to the voters of the question of centralization in the district, in pursuance of Section 4726, General Code, and duly certifies the same to the board of elections of the county in which the school district is located, it becomes the duty of the county board of elections to procure ballots for and conduct an election for centralization in the district, whether or not the schools at the time are being conducted in one central location in the district.

Columbus, Ohio, October 17, 1942.

Honorable Thomas J. O'Connor, Prosecuting Attorney,  
Toledo, Ohio.

Dear Sir:

I have before me your request for my opinion which reads as follows:

“Today, the Board of Elections of Lucas County, Ohio, received a copy of the Resolution passed by the Whitehouse Village School District, which Resolution reads as follows:

‘Whereas, the Board of Education of Whitehouse Village School District, Lucas County, Ohio, has determined that for the continued operation of our present school system, it is necessary that the boundary line of the said school district be maintained as of January 1, 1942;

Resolved, that the said question of Centralization of Whitehouse Village School District, Lucas County, Ohio, be submitted to the qualified voters of said School District on (at the time of regular election) and that a copy of this resolution be certified by the Clerk of this said Board to the Board of Elections of Lucas County, Ohio, to proceed according to law.’

The sections of General Code providing for centralization (G.C. 4726 et seq.) seem to contemplate the centralization of 'schools.' The Whitehouse Village School District has only one school therein, and we would appreciate your opinion as to whether the Board of Elections has any duty to prepare the ballots and submit the question to the electors of said school district."

By the terms of Section 4785-13 and related sections of the General Code of Ohio, it is made the duty of county boards of elections to procure necessary ballots for and to hold and supervise all elections in the county that are authorized by law. Authority for submitting the question of centralization in village and rural school districts to the electors of such district either upon the initiative of the local board of education or a proper petition therefor or upon the order of the county board of education at a general or special election called for that purpose is found in Section 4726, General Code. This section provides as follows:

"Section 4726. A village or rural school district board of education may submit the question of centralization, and, upon the petition of not less than one-fourth of the qualified electors of such village or rural district, or upon the order of the county board of education, must submit such question to the vote of the qualified electors of such village or rural district at a general election or a special election called for that purpose. If more votes are cast in favor of centralization than against it, at such election, such village or rural board of education shall proceed at once to the centralization of the schools of such village or rural district, and, if necessary, purchase a site or sites and erect a suitable building or buildings thereon. If, at such election, more votes are cast against the proposition of centralization than for it, the question shall not again be submitted to the electors of such village or rural district for a period of two years, except upon the petition of at least forty per cent of the electors of such district."

Section 4727 of the General Code, which is also pertinent to your inquiry, reads as follows:

"Section 4727. When the schools of a village or rural school district have been centralized such centralization shall not be discontinued within three years, and then only by petition and election, as provided in section 4726. Nothing in this or the foregoing sections, namely, sections 4726 and 4726-1, shall prevent a county board of education upon the petition of two-thirds of the qualified electors of the territory petitioning for transfer, from transferring territory to or from a centralized school district, the same as to or from a district not centralized."

The provisions of Section 4726, General Code, are clear and contain no exception or qualification whatever limiting the power there extended to submit the question of centralization in the class of districts therein named which would preclude the board from submitting the question even though schools of the district were being conducted at one location in the district or in a single building under one roof. The only qualification is that if the proposition is submitted and loses by reason of more votes having been cast against the proposition than for it, the question shall not again be submitted to the electors for a period of two years except upon the petition of at least 40% of the electors of such district. Section 4727, General Code, also impliedly provides that if the proposition of centralization is submitted and it carries, it may not again be submitted for three years and then only upon petition therefor as provided in Section 4726, General Code.

The power to effect centralization of schools upon a favorable vote of the electors therefor was first provided for by act of the General Assembly enacted in 1900 (94 O. L., 317). As then enacted, the law applied to township districts only. In Section 1 of the Act the term "centralization" as used in the Act was defined as a system of schools in a township providing for the abolishment of all sub-districts and the conveyance of pupils to one or more centralized schools. At the time of the enactment of the law in 1900 authorizing centralization in township districts and for a number of years prior thereto, boards of education in those districts were empowered to accomplish practically the same result with some limitations and restrictions by consolidation of sub-districts in the said township district and the conveyance of pupils to such other sub-districts as might be established in the plan of consolidation that might be adopted. The power to consolidate sub-districts in township districts existed as early as 1878 (75 O. L., 120, Sec. 20) and continued as long as such districts existed. The law with respect thereto, which was in force in 1900, when centralization was first provided for in township districts, was contained in an Act of the General Assembly enacted in 1898 (93 O. L., 47) and was codified as Sections 3921 and 3922, Revised Statutes. Township districts and sub-districts therein have not existed since 1914, but authority of a board of education in rural school districts to consolidate schools and provide for their being conducted at some central point in the district has always existed since then, and in 1914, upon the creation of village school districts the power to consolidate schools upon the initiative of the board of education without a vote was

extended to boards of education in such districts (104 O. L., 133, at page 139). The present law with respect thereto is contained in Section 7730, General Code.

The legislature, upon the enactment of the first law providing for centralization in township districts in 1900, must be charged with knowledge of the fact, that so far as centralization authorized the conducting of the schools within a district at one or more central locations, the power to do so was already possessed by boards of education and the same was true in 1941, when Sections 4726 and 4747, General Code, were amended, extending the power of centralization by vote of the electors to village boards of education. Accordingly, the legislature must have known that it was possible, at least, that in some districts boards of education had previously exercised their power to consolidate the schools and at the time of the enactment of the law there existed some districts in which the schools were all being conducted in some central location in the district either by reason of their previously having been consolidated or by reason of their having always been so conducted from the time of the organization of the district, yet no exception or limitation was included in the law empowering boards of education to submit the question of centralization on that account.

Centralization of schools, however, by an affirmative vote of the electors in pursuance of Section 4726, General Code, involves more than merely the conducting of the schools of a district in one or more central locations. When the proposition is submitted to the electors, and it carries, a mandatory duty devolves upon the board of education of the district to centralize the schools, and such centralization may not be discontinued within three years, and then only by petition and election as provided in Section 4726, General Code, whereas consolidation in pursuance of Section 7730, General Code, is discretionary with a board of education, limited, of course, by the right of the patrons of any school that had been suspended to effect the consolidation, to have the school reestablished upon proper petition therefor as provided by the statute, and such consolidation may be discontinued by the board at any time by the same process the consolidation was effected in the first instance, limited only by the remonstrance by way of petition of the patrons of the district as provided by statute, or the sale of the building after four years in which constituent units of the consolidation previously had been housed.

Furthermore, when centralization is authorized by the electors in pursuance of Section 4726, General Code, the district is spoken of as a "centralized school district." In the first paragraph of the syllabus of the case of *State, ex rel. County Board of Education of Wood County v. Board of Education of Bloom Township Rural School District*, 104 O. S., 75, it is said:

"A school district is a 'centralized school district' within the contemplation of the statute regulating the same, from the time of the election resulting in favor of the proposition of centralization."

In the case of *State, ex rel. v. Board of Education*, 97 O. S., 259, it was held that a county board of education was not authorized by Section 4696, General Code, to transfer territory from a centralized school district even though a petition of 75% of the electors as provided for in said section had been filed therefor, for the reason that such action resulted in a decentralization of the schools, contrary to the terms of the statute as then in force. Since the above decision, the language of Section 4727, General Code, has undergone certain changes by amendment. Said section was twice amended — once in 1919 (108 O. L., Pt. 1, page 235,) and again in 1941, (119 O. L., page 232). In each of the above amendments, however, the terms of the statute which influenced the decision of the court in the above case were left unchanged.

It is apparent that centralization of schools as provided for by Section 4726, General Code, serves a three-fold purpose: (1) an affirmative vote of the electors on the question imposes a mandatory duty on the board of education to centralize the schools; (2) it forbids a decentralization of the schools for three years at least; (3) it serves to prevent a transfer of territory from the district except upon a two-thirds petition of the qualified electors in the territory sought to be transferred, and absolves the county board of education from the mandatory duty provided for by Section 4696, General Code, to transfer territory from the district upon a petition signed by 75% of the qualified electors residing in the territory sought to be transferred.

It is apparent from the provisions of the resolution of the Board of Education of the Whitehouse Village School District for the submission of the question of centralization for the district, which is quoted in your letter, that the board seeks to have centralization effected in the district

for the purpose of preventing transfers of territory from the district upon the initiative of the County Board of Education without a petition being filed therefor. This is a right which the legislature has extended to the school district authority without reservation, and even though the schools are, in effect, now centralized so far as their being consolidated in one central location is concerned.

It is my opinion that under the circumstances as stated by you, it is the duty of the County Board of Elections to prepare ballots therefor and to submit the question of centralization to the voters of the Whitehouse Village School District in pursuance of the resolution of the Board of Education therefor, in the said district.

Respectfully,

THOMAS J. HERBERT  
Attorney General.