the absence of any special rule upon the subject of the particular legislative body acting, a vote upon a reconsideration, as we understand it, need not be at the same meeting, nor at the next succeeding meeting, but it may be taken at any time before rights have vested in pursuance of the vote taken, or before the status quo is changed, and it will be irregular."

The rule quoted by the court is substantially that in effect generally with respect to legislative bodies. As the court suggests, however, no definite time limitation in the absence of a specific rule can be placed upon the right to make the motion to reconsider so that any consideration of an intervening meeting in this instance may be disregarded. You will observe, however, that it is generally true that the motion must be made by a person voting on the side prevailing at the previous vote. In this instance the ordinance was originally lost by a vote of three yeas and two nays. It is a reasonable assumption that the two negative votes in this instance were the same members who voted originally in the negative at the June meeting and consequently that the motion to suspend the rules was not made by either of these members. Consequently, I assume that the motion was not made by a member who voted with the prevailing side on the original vote. While the court in the quotation above recognizes some exceptions to the rule requiring a member vo ng with the prevailing side to make the motion, I believe the rule would be that this right is only extended to other members where the original vote was taken *viva voce* and not by yeas and nays recorded in the journal. Since the vote upon ordinances must, under the provisions of Section 4224, supra, be taken by yeas and nays and entered upon the journal, I assume this was followed in this instance. Accordingly, an essential element to the validity of the motion, considered as a motion to reconsider, is lacking. Since, as I have heretofore stated, the original ordinance can only be revived by a motion to reconsider, and there is no theory upon which the motion to suspend may be treated as a motion to reconsider, it logically follows that, in bringing the ordinance again before council at the July meeting, the introduction of an entirely new ordinance was accomplished. The provisions of Section 4224 with respect to suspension of the rules thereupon became mandatory and it was necessary, in order that the reading of the ordinance on three different days be dispensed with, that the motion to dispense with the rule be passed by a three-fourths vote of all members elected to council. In this instance the motion having received four yeas and two nays the necessary three-fourths vote was not received. Accordingly the suspension of the rules was not lawfully accomplished and the following vote upon the passage of the ordinance was a nullity.

In accordance with the foregoing views, I am of the opinion that the ordinance in question was not legally adopted.

Respectfully,
EDWARD C. TURNER,
Attorney General.

2354.

BOARDS OF EDUCATION—UNITING OF TWO DISTRICTS FOR HIGH SCHOOL PURPOSES—TIE VOTE DISCUSSED.

SYLLABUS:

When the boards of education of two school districts unite the two districts for high school purposes, establish a joint high school for such districts and create a committee consisting of two members of each board for the management of said high school, and there-

after said committee, in its management of the high school, is equally divided on the adoption of certain measures or projects, the proposed measures or projects fail. Action may be taken by said committee at a duly authorized regular or special meeting when three members are present, in which case a tie vote would be impossible, if all members present voted.

COLUMBUS, OHIO, July 16, 1928.

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

GENTLEMEN:—This will acknowledge receipt of your request for my opinion, which reads as follows:

> "Section 7669 et seq. of the General Code, provides for the establishment of joint high schools and that when established such high schools shall be under the management of a high school committee consisting of two members of each of the boards creating such joint district.
>
> Question: In the event that two boards create the joint high school and therefore four members of the committee operate the same, how may questions be determined when there is an equal division of the membership of the committee, that is, when two favor a certain project and two are opposed to it?"

By the terms of Sections 7669 et seq. of the General Code, the board of education of two or more adjacent school districts by a majority vote of the full membership of each board may unite such districts for high school purposes. A high school so established shall be under the management of a high school committee consisting of two members of each of the boards creating such joint district, elected by a majority vote of such board.

There are no specific statutory provisions directing a joint high school committee how it shall organize or what mode of procedure shall be followed in the transaction of its business. In the absence of any affirmative directions in this respect, the committee should be guided by the practice adaptable to similar administrative boards and, in so far as practicable, that practice should be followed.

It is a fundamental principle of democratic government that the majority shall rule. With few exceptions, such as the changing of fundamental laws or rules of procedure, overriding vetoes and authorization of certain bond issues, the principle of majority rule has received universal sanction by both legislative and judicial authorities. The rule is applied as a guiding factor in the government of deliberative assemblies, boards and commissions, both of a public and private character, and, in the absence of any specific provision of law providing otherwise, extends not only to the number of affirmative voices required to adopt proposed measures or courses of action, but to the number necessary for a quorum in order to do business at all.

The general rule is stated in Cushing's Manual, in these words:

> "A quorum, unless a specific rule has been established by positive law, consists of a majority of the members of the body, and a quorum possesses all the powers of all. Furthermore, a majority of the quorum govern. Thus, if a body consists of twelve councilmen, seven is the least number that can constitute a valid meeting, though the action of four of the seven may bind the rest. In other words, action by the four binds the twelve."

A joint high school committee would have authority to, and should, in my opinion, adopt rules to facilitate the orderly conduct of its business. Among others, a rule might be adopted fixing the times for regular meetings so that if a majority of the

entire committee be present on a regular meeting date, or at a special meeting duly called, in accordance with rules adopted, the committee may function; and a majority of those present will be sufficient to pass measures and authorize the carrying out of proposed projects. If the committee does not adopt such rule and does not hold its meetings at regular stated times, but haphazardly, as it may come together, or upon the call of some one of the members, without any definite rule, it will require a majority of the entire committee, instead of a majority of those present constituting a quorum, in order affirmatively to sanction proposed measures and courses of conduct.

Clearly, if a proposal does not receive a majority either of the entire committee or of a quorum as the case may be, it fails, and is neither sanctioned nor denied. That is to say, if when a proposed measure is put forward, and it receives less, or the same number of affirmative votes as negative votes, it does not receive a majority of affirmative votes, and fails, and its status is the same as before it was projected.

The members of boards, commissions and committees express their approval or disapproval of proposed measures by yea and nay votes. If the yeas and nays are equal, there is said to be a tie vote; or as it is sometimes expressed, the committee or board is deadlocked, and nothing is accomplished, as the proposal cannot carry unless there are more yea votes than nay votes. Proposals are made in the affirmative, and unless the affirmation of a proposal carries by a majority vote, or more than one-half the whole number authorized to pass on the question, it fails, and matters are left the same as though the proposal had never been made.

Under some circumstances, either by authority of a positive rule of law, or by reason of some authorized by-law or rule of procedure presiding officers, who do not otherwise have a voting voice in the deliberations of the assembly or board, are authorized to break a tie vote. An example of this is seen in the provisions of the Federal Constitution authorizing the Vice President, as presiding officer of the United States Senate, to vote when the Senate is equally divided. Rules or by-laws are often adopted by public, as well as private assemblages or boards, who are authorized to select presiding officers outside their own number, or whose presiding officer is not empowered to vote in the ordinary course of the proceedings, to vote in case of a tie.

While a joint high school committee may provide for its organization in such a manner as to promote the orderly transaction of its business and may select from its own number a chairman or presiding officer, it would defeat the purpose of joint management of the school to permit the committee to select a presiding officer with power to vote in case of a tie from persons outside of its own membership, or to select one of its number to preside, and vote only in case of a tie, or to permit such presiding officer to vote as a member of the committee and again to break a tie when such a situation occurs.

I am therefore of the opinion in specific answer to your question, that when the boards of education of two school districts unite the two districts for high school purposes, establish a joint high school for such districts, and create a committee consisting of two members of each board for the management of said high school, and thereafter said committee in its management of the high school is equally divided on the adoption of certain measures or projects, the proposed measures or projects fail. Action may, however, be taken at a duly authorized regular or special meeting when three members are present, in which case a tie vote would be impossible, if all members present voted.

Respectfully,

EDWARD C. TURNER,

Attorney General.