

the power to appoint or employ and the limitation on that power with respect to the payment of compensation. It is only by drawing from the item in the appropriation law an inference which takes its operation beyond the natural scope of the law that we are able to educe an intent to suspend the permanent law. To permit such effect to be given to the appropriation law by inference would be violative of the principle which must be applied in such cases."

It is therefore my opinion that:

(1) The legislature in appropriating nine hundred dollars for the next six months and eighteen hundred dollars for the succeeding twelve months, for the salary of the patrolman at Portage Lakes, did not suspend, amend or repeal Rule 3, Section 479 of the General Code, which limits the amount that such patrolman may receive to twelve hundred dollars per annum.

(2) The police patrolman at Portage Lakes may not receive more than twelve hundred dollars per annum.

Respectfully,  
EDWARD C. TURNER,  
*Attorney General.*

675.

BOARD OF EDUCATION—ELECTION OF COUNTY SUPERINTENDENT  
AT SPECIAL MEETING MAY BE RATIFIED AT REGULAR MEETING  
IF NO PROTEST FILED AND ALL ACTION TAKEN WITHIN TIME  
LIMITED BY LAW.

*SYLLABUS:*

*Election of county superintendent at special meeting may be ratified at regular meeting if no protest filed and all action taken within time limited by law.*

COLUMBUS, OHIO, June 29, 1927.

HON. HOWARD J. SEYMOUR, *Prosecuting Attorney, Ravenna, Ohio.*

DEAR SIR:—This will acknowledge receipt of your request for my opinion as follows:

"I am writing for your opinion as to the legality of the election of a Superintendent of Schools by a County Board of Education under the following circumstances:

A County Board of Education, at a meeting for re-organization held January 15, 1927, passed the following resolution in compliance with General Code, Section 4733:

'Moved by ———, seconded by ———, that the board reorganize by re-electing the 1926 corps of officers, ———, president; ———, vice-president, board to meet the third Saturday of odd months, unless otherwise legally notified.

'Vote: ———, yes; ———, yes; ———, yes; ———, yes.'

Inadvertently, the County Superintendent scheduled a meeting of his principals and superintendents for March 19, the date on which the County Board would meet, unless the members thereof should be legally notified of the change of time.

Having become aware of the conflict of engagements, the County Superintendent communicated with each board member, prior to March 19, to learn if it would be convenient for each to attend the meeting at a later date. Consent having been obtained, the secretary of the board mailed a letter to each member, announcing that the March meeting would be held at 10 A. M., Friday, March 25.

In accordance with this notice, the County Board met, all members being present. The following is a verbatim quotation from the minutes of said meeting:

'The regular bi-monthly meeting of the board was held on Friday, March 25, instead of on March 19, due to a meeting of superintendents and principals having been scheduled for the latter date. In accordance with the rules of the board, the members were legally notified of the change of date. The board met at the county office at 10:15 A. M., with the following members present: ———, ———, ———, ———, ———.'

It is the custom of this board to vote the payment of bills at regular meetings only. Bills were audited and voted paid at the March 25 meeting.

Also, at this meeting, the board proceeded to and did elect a County Superintendent of Schools.

The next regular meeting of the board was held on May 21. Four members were present, the fifth having removed from the county subsequent to the previous meeting. The following is a verbatim excerpt from the minutes of the May 21 meeting:

'The minutes of the regular bi-monthly meeting of the board, which was held at the County School office on Friday, March 25, were read and approved without correction or addition.'

I shall appreciate your opinion at your early convenience."

The answer to your inquiry requires consideration of the provisions of Sections 4732, 4733 and 4744, General Code, which are so far as pertinent as follows:

"Sec. 4732. Each county board of education shall meet on the third Saturday of January of each year, and shall organize by electing one of its members president and another vice-president, both of whom shall serve for one year. \* \* \*"

"Sec. 4733. The regular meetings of the county board of education shall be held at the office of the county superintendent. At the time of the first meeting, the board shall fix the time for holding its regular meetings. Regular meetings shall be held at least every two months and when necessary other meetings may be held at the call of the president, or any two members. \* \* \*"

"Sec. 4744. The county board of education at a regular meeting held not later than July 20th, shall appoint a county superintendent for a term not longer than three years commencing on the first day of August. \* \* \*"

Relying upon the fact that the conflict of meetings on March 19th was inadvertent, and assuming that there has been no protest filed by any elector of the county, I am of the opinion that the irregularity in the method of the election of

the county superintendent is not such that renders the same void. If, however, it was claimed by electors of the county that they were misled and had no opportunity to protest the election of the county superintendent, and there were good grounds for the protest, such election might be held by a court to be voidable.

Even if there were any question about the regularity of the first meeting, which was attended by all of the members of the board, I am satisfied that their action was ratified at the succeeding meeting at which the minutes of the previous meeting were read and unanimously approved.

Respectfully,

EDWARD C. TURNER,  
*Attorney General.*

676.

BOARD OF EDUCATION—COUNTY BOARDS NOT CHARGED WITH MANDATORY DUTY OF TRANSFERRING TERRITORY FROM ONE DISTRICT TO ANOTHER EVEN THOUGH A PETITION BE FILED SIGNED BY 75 PER CENT OF THE ELECTORS.

SYLLABUS:

*Under no circumstances are county boards of education charged with the mandatory duty of transferring territory from one village or rural school district to another village or rural school district within the same county school district as authorized by Section 4692, General Code, even though a petition be filed therefor signed by seventy-five per cent of the electors residing within the territory sought to be transferred.*

COLUMBUS, OHIO, June 29, 1927.

HON. FRANK F. COPE, *Prosecuting Attorney, Carrollton, Ohio.*

DEAR SIR:—This will acknowledge receipt of your communication as follows:

“I would like your opinion as to whether or not under Section 4692 of the General Code, a petition of 75% as required therein, can, in any event, make it mandatory on the part of the county board of education to transfer territory, all of the requirements being complied with, from one school district to another.”

The provisions of Section 4692, General Code, are as follows:

“The county board of education may transfer a part or all of a school district of the county school district to an adjoining district or districts of the county school district. Such transfer shall not take effect until a map is filed with the auditor of the county in which the transferred territory is situated, showing the boundaries of the territory transferred, and a notice of such proposed transfer has been posted in three conspicuous places in the district or districts proposed to be transferred, or printed in a paper of general circulation in said county, for ten days; nor shall such transfer take effect if a majority of the qualified electors residing in the territory to be