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1. CITIZENS COMMITTEE—MUST BE COMPOSED OF NINE OR MORE MEMBERS—NO SCHOOL DISTRICT IN A COUNTY MAY HAVE MORE THAN THREE REPRESENTATIVES ON THE COMMITTEE.
2. COUNTY WHICH HAS LESS THAN THREE SCHOOL DISTRICTS WITHIN ITS BOUNDARIES—CAN NOT BE INVOKED FOR FORMATION OF CITIZENS COMMITTEE—SECTION 3311.30 RC.

**SYLLABUS:**

1. Section 3311.30, Revised Code, provides that a citizens committee organized pursuant to its terms, must be composed of nine or more members and that no school district in a county may have more than three representatives on such committee.

2. In a county which has within its boundaries less than three school districts, Section 3311.30, Revised Code, cannot be invoked for the formation of a citizens committee.

Columbus, Ohio, January 31, 1956

Hon. John S. Bath, Prosecuting Attorney  
Fayette County, Washington C. H., Ohio

Dear Sir:

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

"Your opinion on the interpretation of Section 3311.30, Revised Code of Ohio, is requested as to its application to the formation of a County Citizen's Committee in this County.

"The statute provides, in part, that:

- "(1) 'Each County Committee shall consist of nine or more persons'
- "(2) 'No County Citizens Committee shall have more than one member from any school district unless said County has less than nine school districts whereupon a school district may have more than one member but not exceeding three members.'

"A problem arises in this County by reason of the fact that there are only two school districts and that, therefore, if the second provision of the statute referred to is strictly followed, a Citizen's Committee could not be formed which would comply with the requirements of the first quoted provision of this statute.

"Your opinion is therefore requested, as to a county having two school districts, as to: (1) How many persons shall comprise a County Citizen's Committee, and, (2) What number of members of such Citizen's Committee, both as to maximum and minimum numbers, shall represent each of the districts on such County Citizen's Committee?

Section 3311.30, Revised Code, reads in part as follows:

"There shall be created in each of the counties of this state a county citizens' committee to study the need and recommend proposals for the reorganization of the school districts of the county when the county board of education shall adopt a resolution providing for a citizens committee, or when a petition is filed with the county board of education containing the names of three per cent of the electors voting in the last general election in the county or 400 electors whichever number is smaller. The jurisdiction of the citizens committee shall include all school districts in the county except city districts which did not join such citizens committee.

“Each county committee shall consist of *nine or more* persons who are legal residents of the county and who are not elected officials or paid employees of the public school system.

“The selection of the *nine or more* members of each county citizens committee shall be accomplished in the following manner;” \* \* \*  
(Emphasis added.)

After providing for the selection of the committee by a convention called for that purpose, the statute further provides:

“\* \* \* No county citizens committee shall have more than one member from any school district *unless said county has less than nine school districts whereupon a school district may have more than one member but not exceeding three members.* \* \* \*”  
(Emphasis added.)

Section 3311.31, Revised Code, governs the procedure of this committee, and sets forth the process by which its recommendations may be made effective.

Your letter states that there are only two school districts in the county. That being the case, it is obvious that no citizens committee can be organized in your county without departing somewhat from the plain statutory requirement. Either we must allow the committee to be organized with less than nine members, or we must sanction the selection of more than three members from each of the two districts.

Of course I have no right to amend the law in either of those respects. But I am mindful of the mandate contained in the first sentence above quoted that “there shall be created in *each of the counties* of the state a citizens’ committee” and I cannot presume that the legislature, after making that declaration, should have proceeded to cut out a county which had only two school districts. Accordingly I should interpret the law, if at all possible, so as to make it effective in every county.

It is a well recognized principle of construction of statutes that the purpose of construction is to ascertain the intent and purpose of the legislature in enacting them. In the case of the statute under consideration that purpose was clearly expressed in the opening sentence, viz., that a citizens committee shall be created in *every county*. It is said in Crawford on “Statutory Construction” at Section 166:

“Consequently, that construction that will leave every word operative will be favored over one which leaves some word or

provision meaningless because of inconsistency. But a word should not be given effect, if to do so gives the statute a meaning contrary to the intent of the legislature. On the other hand, if full effect cannot be given to the words of a statute, they must be made effective as far as possible. Nor should the provisions of a statute which are inconsistent be harmonized at a sacrifice of the legislative intention. It may be that two provisions are irreconcilable; if so, the one which expresses the intent of the law-makers should control."

But is there any contradictory language in this statute? The legislature doubtless assumed that in every county of the state there would be at least three school districts, and that with a possible maximum of three members from each district, the citizens committee could be duly constituted. But must we not assume that in the legislative mind the intention to make the committee consist of at least nine, was just as strong as was the intent to limit each district to a possible three members? Such being the fact, how can I substitute my judgment for the positive language of the legislature and undertake to decide which if either of these clear provisions of the law should give way.

At most we must concede that an ambiguity is introduced into the *application* of the law by the situation existing in your county. Whatever ambiguity may assist in the application of the statute is therefore not inherent in it, but is purely extraneous, and there is no room left for construction.

The law as to construction of statutes and the limitation on the right to resort thereto is clearly set forth in the case of *Slingluff et al. v. Weaver*, 66 Ohio St., 621, where it was held:

"1. The object of judicial investigation in the construction of a statute is to ascertain and give effect to the intent of the law-making body which enacted it. And where its provisions are ambiguous, and its meaning doubtful, the history of legislation on the subject, and the consequences of a literal interpretation of the language may be considered; punctuation may be changed or disregarded; words transposed, or those necessary to a clear understanding and, as shown by the context manifestly intended, inserted.

"2. But the intent of the law-makers is to be sought first of all in the language employed, and if the words be free from ambiguity and doubt, and express plainly, clearly and distinctly, the sense of the law-making body, there is no occasion to resort to other means of interpretation. The question is not what did the

general assembly intend to enact, but what is the meaning of that which it did enact. That body should be held to mean what it has plainly expressed, and hence no room is left for construction.”

In that case the legislature has passed an act which had the effect of depriving the supreme court of practically all of its appellate jurisdiction. In the opinion it was recited that neither the author of the bill nor any member of either house intended such result. Commenting on this, the court said in the opinion, page 626:

“\* \* \* the court does not possess and should not attempt to exercise, the power of introducing doubt or ambiguity not apparent in the language, and then resort to verbal modifications to remove such doubt and conform the act to the court’s supposition with respect to the intent of the legislature, for it seems well settled, as expressed by Story, J., in *Gardner v. Collins*, 2 Pet., 58: ‘What the legislative intent was can be derived only from the words they have used; we cannot speculate beyond the reasonable import of those words. The spirit of the act must be extracted from the words of the act, and not from conjectures *aliunde*.’” \* \* \*

Accordingly, since I can find no ambiguity in the language of Section 3311.30, *supra*, I am forced to conclude that the legislature may have unintentionally placed such restrictions in the law that certain counties cannot avail themselves of its provisions, and that so far as your county is concerned, the procedure contemplated by that section cannot be invoked.

I think I should point out that there is abundant authority to be found in the law whereby any changes in school districts which could be brought about by the appointment of a citizens committee may be accomplished by action of the county board of education. Sections 3311.23 to 3311.26, inclusive, Revised Code, provide processes whereby territory may be transferred from one district to another and new districts may be created out of existing districts or parts thereof.

In specific answer to your question, it is my opinion:

1. Section 3311.30, Revised Code, provides that a citizens committee organized pursuant to its terms, must be composed of nine or more members and that no school district in a county may have more than three representatives on such committee.

2. In a county which has within its boundaries less than three school districts, Section 3311.30, Revised Code, cannot be invoked for the formation of a citizens committee.

Respectfully,

C. WILLIAM O'NEILL

Attorney General