

under its control, or to elect a superintendent or teachers, or to pay their salaries, or to pay out any other school money, needed in school administration, or to fill any vacancies in the board within the period of thirty days after such vacancies occur, the county board of education of the county to which such district belongs, upon being advised and satisfied thereof, shall perform any and all such duties or acts, in the same manner as the board of education by this title is authorized to perform them."

In cases where the county board of education takes over the management of local school systems within the county district, by virtue of the authority vested in it by the terms of Section 7610-1, *supra*, the teachers, principals and superintendents of such local school systems would, while the county board was exercising the functions of the local board, bear the same relation to such teachers, principals and superintendents as the local board would bear at other times. And it is clear that the duties incumbent upon an employe would be incompatible with the duties of his employer.

The question might arise whether or not, when the incompatibility between offices or public employments would not exist except upon the happening of certain contingencies, the positions would be said to be incompatible before the contingencies arise or only after the happening of the occurrences upon which the contingency hinges. I do not find that this question has ever been considered by the courts or text writers.

It would seem apparent to me, however, that when an officer was elected or appointed for a definite term or an employe was employed by contract for a definite time, as are teachers, principals and superintendents of the schools in local districts, if there be a possibility of the contingency arising during the term of office or during the time which the contract of employment covers, which would make a position incompatible, the rule of incompatibility would apply.

In an early English case, *Rex vs. Tizzard*, 9 B & C 418, Judge Bailey in speaking of incompatibility of offices uses this language:

"I think that the two offices are incompatible when the holder cannot in every instance discharge the duty of each."

I am therefore of the opinion that the position of principal or superintendent of the schools of a rural or village school district, or teacher in such schools, is incompatible with membership on the county board of education for the county school district to which such rural or village school district belongs.

Respectfully,
EDWARD C. TURNER,
Attorney General.

1289.

DISAPPROVAL, BONDS OF HARRISON TOWNSHIP RURAL SCHOOL DISTRICT, MONTGOMERY COUNTY—\$35,000.00.

COLUMBUS, OHIO, November 23, 1927.

Re: Bonds of Harrison Township Rural School District, Montgomery County, \$35,000.00.

The Industrial Commission of Ohio, Columbus, Ohio.

GENTLEMEN:—I have examined the transcript of the proceedings of the board of education and other officers of Harrison Township Rural School District relative to the above bond issue and find that the said bonds are being issued without the authority of a vote of the electors of the district and that the proceedings were started on the 7th day of June, 1927, the bond resolution having been passed on that date. The bonds having been authorized subsequent to the date of the filing of House Bill No. 1 of the 87th General Assembly in the office of the Secretary of State, to-wit, May 12, 1927, I am of the opinion that under Section 20 of said act the bonds are subject to the provisions of the same.

Section 2293-15, General Code, enacted by the 87th General Assembly as a part of said House Bill No. 1 limits the net indebtedness created or incurred by a school district without a vote of the people to one-tenth of one per cent of the value of all the property in the district as listed and assessed for taxation. The financial statement included in the transcript states that the tax valuation in force at the time of the passage of the bond resolution was \$18,448,200.00 and it is evident that the \$35,000.00 issue above referred to will of itself make the net indebtedness of the district exceed the one-tenth of one per cent limitation.

However, if it should be determined that said bonds are subject to the provisions of law in effect prior to the passage of said House Bill No. 1, I desire to call your attention to the provisions of Section 7629, General Code, which was repealed by said House Bill No. 1, to the effect that school districts might annually issue bonds in an amount not to exceed the aggregate of a tax at the rate of two mills applied to the tax valuation of the year next *preceding* such issue. The financial statement above referred to shows that the tax valuation for the year next preceding the passage of the bond resolution was \$16,285,700.00 and it becomes evident that the \$35,000.00 bond issue exceeds an amount equal to a tax of two mills on said valuation.

For the foregoing reasons I am compelled to advise you not to purchase the above issue of bonds.

Respectfully,
EDWARD C. TURNER,
Attorney General.

1290.

APPROVAL, FINAL RESOLUTIONS ON ROAD IMPROVEMENTS IN
MONTGOMERY COUNTY.

COLUMBUS, OHIO, November 23, 1927.

HON. GEORGE F. SCHLESINGER, *Director, Department of Highways and Public Works,*
Columbus, Ohio.