

dividual liability of each shareholder as may exist. Until an order to declare and pay a final dividend shall be entered in such proceedings the right to enforce such liability for the benefit of all creditors is hereby vested exclusively in the superintendent."

The above quoted section makes the Superintendent of Building and Loan Associations the ministerial agent for the enforcement of the contractual rights of the depositors or creditors as against stockholders until such time as an order to declare and pay a final dividend shall be entered.

Specifically answering your questions in numerical order, I am of the opinion that:

1. In the case of a building and loan association now in liquidation, liability assessments do not have to be made prior to July 1, 1937.
2. The court action does not have to be started prior to July 1, 1937.
3. Therefore liability can be assessed at such time as future appraisals may show necessity for such an assessment.

Respectfully,

HERBERT S. DUFFY,
Attorney General.

661.

TEACHERS INSTITUTE—TEACHERS PAYMENT
—ATTENDANCE.

SYLLABUS:

A county board of education having authorized the holding of a teachers' institute, as provided for in Section 7868, General Code, can not substitute a day's attendance at a meeting of the Progressive Education Association in lieu of a day's attendance at its duly authorized county institute, and pay the expenses incurred for attendance of teachers and superintendents at such meeting of the Progressive Education Association.

COLUMBUS, OHIO, May 27, 1937.

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

GENTLEMEN: This will acknowledge receipt of your recent communication, which reads as follows:

"We wish to submit a question concerning the legality

of a county board of education authorizing the payment of funds from the county treasury under the following conditions:

On December 11, 1933, the county board of education authorized the holding of a Teachers' Institute during the school year as provided in Section 7868 G. C., except that instead of the formal resolution specified, such authority was by motion and second.

On January 20, 1934, the County Superintendent asked the Board's permission to substitute a day's attendance on Friday, March 2, 1934, at the meetings of the Progressive Education Association for the regular institute program contemplated by the Board's action December 11, 1933. According to the minute record, 'The Board reacted favorably to this planned substitute'. On March 12, 1934, the Board authorized the payment of \$287.00 from the County Board of Education Fund to Mr. George W. Crill, Chairman of the Finance Committee of the Progressive Education Association. This sum represents payment for 287 Cuyahoga County Teachers' Admission Tickets for Progressive Education Association meetings.

Section 4744-3a, G. C., authorizes, 'The County Board of Education * * to pay the expenses of its educational meetings required by law.' Section 7706-1, G. C., provides for the assembling of the Teachers, Assistant Superintendents, eac., for conference on school matters. Section 7871, G. C., in a city school district, authorizes the substitution of a Teachers' Meeting for a Teachers' Institute.

As above stated, the County Board of Education having, after a fashion, provided for an institute and attempted to substitute a day's attendance at the Progressive Education Association Meeting in place of such institute and in lieu of contributing toward the expense of an institute or its substitute as in this case, may the County Board legally pay the sum of \$287.00 as stated, and for the purpose stated?

We have referred to a section of law relating to City Institute. It is presumed that the County Board of Education could not operate under law relating to City Boards. It appears to us that is what was done in this instance."

The question to be determined herein is whether or not a county board of education, after providing for the holding of a county institute, can substitute one day of the session of such institute for a day's attendance of the teachers at the Progressive Education

Association and pay the expenses for such attendance at the Progressive Education Association.

The sections of the General Code, pertinent to the answer of this question provide as follows:

“Sec. 7860. The county teachers’ institute annually, shall elect by ballot, a president and a secretary. Such election of officers shall be held during the session of such institute and at a time fixed by the county board of education. At least three days’ notice of the election shall be given the members of such institute by posting conspicuously in the room where the institute is held, a notice of the time and place of holding it, and of the officers to be voted for. The expenses of conducting such institute shall be paid out of the county board of education fund upon the order of the president of the county board of education.”

“Sec. 7865. Within five days after the adjournment of the institute, the county superintendent shall report to the superintendent of public instruction the number of teachers in attendance, the names of instructors and lecturers attending, the amount of money received and disbursed by the county board of education and such other information relating to the institute as the superintendent of public instruction requires.”

“Sec. 7868. The teachers’ institutes of each county shall be under the supervision of the county boards of education. Such boards shall decide by formal resolution at any regular or special meeting held prior to February 1st of each year whether a county institute shall be held in the county during the current year.”

“Sec. 7868-1. Each village and rural board of education in counties in which no county institute has been held in any year, shall pay ten dollars to each teacher employed by such board who has attended for at least six weeks during such year, a recognized summer school for the training of teachers.”

“Sec. 7869. All teachers and superintendents of the public schools within any county in which a county institute is held while the schools are in session may dismiss their schools for the purpose of attending such institute.

The county boards of education shall decide the length of time county institutes may remain in session, in no case for longer period than five days. At least one day of such

session shall be under the immediate direction of the county superintendent who shall arrange the program for such day."

"Sec. 7869-1. In place of the county institute provided for in this chapter the county board of education may authorize a county institute to be held after the opening of the schools on Saturdays, but for not more than four such days in any school year. A part of the county institute may be held before the opening of the schools and the remainder after the schools are in session, but such institute shall not be for a longer period than four days."

"Sec. 7870. When a teachers' institute has been authorized by the county board of education the boards of education of all school districts shall pay the teachers and superintendents of their respective districts their regular salary for the week they attend the institute upon the teachers or superintendents presenting certificates of full regular daily attendance, signed by the county superintendent. If the institute is held when the public schools are not in session, such teachers or superintendents shall be paid two dollars a day for actual daily attendance as certified by the county superintendent, for not more than five days of actual attendance, to be paid as an addition to the first month's salary after the institute, by the board of education by which such teacher or superintendent is then employed. In case he or she is unemployed at the time of the institute, such salary shall be paid by the board next employing such teacher or superintendent, if the term of employment begins within three months after the institute closes."

It is to be observed from a reading of the above statutes relating to county teachers' institutes that all the provisions contained therein are strictly limited to the sessions of a county institute. Section 7860, *supra*, limits payment from the county board of education fund to the expenses of conducting such institute; Section 7865, *supra*, requires a detailed report by the county superintendent of all activities of the institute and it is to be particularly noticed that the report is to show the amount of money disbursed by the county board of education for the holding of the institute; Section 7868, *supra*, permits the county board of education to determine *whether a county institute shall be held*: Section 7868-1, requires rural and village boards of education, if no county institute has been held, to pay \$10.00 to an employed teacher for attending summer school; Section 7869, permits the schools to dismiss for purpose of teachers attending such institute; Section 7870, authorizes payment to a teacher of the regular

salary for the week if the institute is held when the schools are in session; if held when the schools are not in session \$2.00 a day for "actual daily attendance."

The language of these statutes cannot be construed or interpreted to pertain to, or include anything else except sessions of a county institute. It was doubtless the policy of the Legislature to encourage teachers to avail themselves of the opportunities afforded by the institutes and to better fit themselves to instruct the youths committed to their charge. In order to attain this end the Legislature made adequate provision for the most important element in conducting such institutes—the paying of expenses for conducting the institute and for payment of teachers and superintendents. Also for dismissal of school. It specifically limited expenditures to the expenses of *conducting such institutes*, payment to teachers and superintendents on the basis of *actual daily attendance to the institute* and dismissal of school *for the purpose of attending such institute*. The statutes bear no other interpretation than that the dismissal of school and incurring of expenditures must be for the purpose of conducting and attending sessions of the institute.

A meeting of the Progressive Education Association cannot be said to have any connection with the county institute. It is no doubt true that at a meeting for a day of the Progressive Education Association a teacher can gain the same beneficial and valuable instruction as he or she can receive in one day's session of the institute. However, the fact remains that the Legislature could have provided for payment of expenditures incurred in attending such educational meetings just as it did in providing for payment of expenses incurred in conducting the institute. Not having directly provided for the same, it can not be done indirectly by substituting a day's attendance at the Progressive Education Association for a day's attendance at the institute.

In an opinion rendered by a former Attorney General, Opinions of the Attorney General for the year 1919, Volume I, page 464, it was said:

"County boards of education are unauthorized to pay the expenses of teachers' meetings other than the annual teachers' institute which must be held during one certain week."

In that opinion the question also arose whether or not the county board of education could pay for attendance at an educational meeting by virtue of the provisions of Section 4744-3a, General Code, which provides, in part, as follows:

“The county board of education is authorized to pay the expenses of its educational meetings required by law.”

At page 468, it was said:

“It will be noted that the section says the ‘educational meetings required by law’ and no others. This is a mere repetition of the language of Section 7860, which provides for the payment of the expenses of the annual county teachers’ institute herein discussed, that being the only ‘educational meeting’ of teachers required by law. Educational meetings arranged by the school authorities voluntarily at various times would not come within those required by law. Attention is invited to opinion 342, issued by the Attorney General June 6, 1917 (Vol. I), the syllabus of which reads:

‘The county board of education is authorized to order but one institute held in the county during any one year and such institute must be held during some one certain week. If other institutes are held the expense thereof cannot be paid from the county board of education fund.’”

It therefore is my opinion that although teachers’ meetings held for the purpose of promoting the thoroughness and efficiency of the teachers in schools are commendable, that since there is no provision in the law permitting a county board of education to substitute a day’s attendance at a teachers’ meeting in lieu of a day’s attendance at its duly authorized county institute, the county board of education is not authorized to pay the expense incurred for attendance of teachers and superintendents at such a teachers’ meeting.

Specifically answering your question it is my opinion that, the county board of education is unauthorized to substitute a day’s attendance at a meeting of the Progressive Education Association in lieu of a day’s attendance at its duly authorized county institute and pay the expense incurred for attendance of teachers and superintendents at such meeting of the Progressive Education Association.

Respectfully,

HERBERT S. DUFFY,

Attorney General.