

less than fifteen per cent of such fines and penalties so collected, without the deduction of the allowances above mentioned.

2. There is no provision of law authorizing a county law library association to transfer the title to property received by it from such fines and penalties, to a municipal law library. However, the trustees of a county law library association may authorize such municipal library to use books purchased by the county association under the supervision of the county librarian.

Respectfully,
GILBERT BETTMAN,
Attorney General.

1437.

BOARD OF EDUCATION—ONE OF FIVE NEWLY ELECTED MEMBERS
NOT QUALIFIED—HOW VACANCY FILLED.

SYLLABUS:

In the event a person who has been elected as a member of a board of education fails to qualify within ten days after the organization of the board, as provided in Section 4747, General Code, a vacancy exists under the provisions of Section 4748, General Code, which vacancy should be filled as therein provided.

COLUMBUS, OHIO, January 22, 1930.

HON. C. LUTHER SWAIM, *Prosecuting Attorney, Wilmington, Ohio.*

DEAR SIR:—Your letter of recent date is as follows:

“The following question has arisen in one of the village school districts of this county and the board, the Board of Elections of Clinton County and this office ask your opinion on the status of this case.

About two years ago during the year 1928, a new village school district was created in this county from an existing village school district and certain contiguous rural territory. The county board of education appointed the five members of the board of education of the newly created village school district and the new members thereof were elected at the November, 1929, election.

At the November, 1929, election there were four candidates for the three positions for the long term of four years for members of the board, and two candidates for the two positions for the short term. Of the four candidates for the long term three were the old appointed members with one new name. Two of the old appointed members were elected and the new person defeated the third appointed member. The new person failed to qualify and the question has arisen as to the right of the defeated member to retain his seat for the failure of his successor to qualify.

The question is, therefore, does this old appointed member hold over until the next general election at which time a successor may be elected and qualified or do the four elected members have a right to select the fifth member of the board? This case involves an interpretation of G. C. Sec. 4745 and G. C. Sec. 4736.”

Section 4748, General Code, provides:

"A vacancy in a board of education may be caused by death, non-residence, resignation, removal from office, failure of a person elected or appointed to qualify within ten days after the organization of the board or of his appointment, removal from the district or absence from meetings of the board for a period of ninety days, if such absence is caused by reasons declared insufficient by a two-thirds vote of the remaining members of the board, which vote must be taken and entered upon the records of the board not less than thirty days after such absence. Any such vacancy shall be filled by the board at its next regular or special meeting, or as soon thereafter as possible, by election for the unexpired term. A majority vote of all the remaining members of the board may fill any such vacancy."

In view of the foregoing section wherein it is expressly provided that failure of a person elected as a member of a board of education to qualify within ten days after the organization of the board, shall create a vacancy and that such vacancy shall be filled by the board as therein provided, I am of the opinion in answer to your inquiry that in the event a person who has been elected as a member of a board of education fails to qualify within ten days after the organization of the board, as provided in Section 4747, General Code, a vacancy exists under the provisions of Section 4748, General Code, which vacancy should be filled as therein provided.

Respectfully,

GILBERT BETTMAN,
Attorney General.

1438.

PREPARATION OF DEED TO CONVEY PREMISES DESCRIBED IN
HOUSE BILL NO. 294 TO CITY OF ALLIANCE, STARK COUNTY, FOR
ARMORY PURPOSES.

COLUMBUS, OHIO, January 23, 1930.

HON. A. W. REYNOLDS, *Adjutant General, Columbus, Ohio.*

DEAR SIR:—You have requested me to prepare deed to convey the premises described in House Bill No. 294, enacted by the 88th General Assembly, 113 O. L. 503, to the city of Alliance.

From your communication, it appears that in accordance with the provisions of said act, you have purchased a new site from the city of Alliance, and in payment of the purchase price of said new site, you have agreed to convey the premises under consideration herein which were deeded to the state for armory purposes, to the city of Alliance, and that the Governor has approved the same.

Enclosed herewith you will find form of deed which I have prepared and which it is believed proper under the circumstances. The deed, of course, should be signed by the Governor, countersigned by the Secretary of State, transmitted to the Auditor of State to the end that it may be recorded by him, and then forwarded to the city of Alliance.

Respectfully,

GILBERT BETTMAN,
Attorney General.