

OFFICIAL OPINION NO. 35

August 14, 1963

Mr. Robert R. McClarren, Director
Indiana State Library
140 North Senate Avenue
Indianapolis 4, Indiana

Dear Mr. McClarren:

Your letter of August 2, 1963, addressed to the Attorney General has been received and reads, in part, as follows:

“The Indiana State Library respectfully requests an opinion from your office on the following question regarding the appointment of library board members by a school board or board of school trustees or board of school commissioners of a newly organized school corporation as provided for in Acts 1947, ch. 321, sec. 8 (Burns 41-908).

“1. Where a school reorganization has combined towns and townships into a single school corporation, thus placing the schools from towns in which libraries are located under a school board for the first time, does the newly organized school board now appoint two members to the library boards of towns included in the new school district even though all or some of the members of the school board are not residents of the library district?”

Attention is then directed to the fact the particular school corporation involved is North-White School Corporation of White County, Indiana.

An examination of the public records of the State Commission for the Reorganization of School Corporations reveals said North-White School Corporation is a reorganized school corporation under the provisions of Acts of 1959, Ch. 202, as amended, as found in Burns' (1963 Supp.), Section 28-6101 *et seq.* Under Section 9 of said reorganization statute, as amended, as found in Burns' (1963 Supp.), Section 28-6120, provisions are made for the election or appointment of a board

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of school trustees to manage and operate said school corporation.

Under clause (10) of the above-referred to section of the statute it is provided:

“The transfer of powers, duties, property rights, other assets, liabilities, contracts both as to rights and obligations, and all else connected with the transfer of authority from existing school corporations to the community school corporation shall take place at the time of the formation and creation of the community school corporations and are hereby declared vested in the community school corporations at that time.”

Acts 1947, Ch. 321, Sec. 8, as amended, referred to in your letter, is Burns' (1963 Supp.), Section 41-908, and concerns the appointment of members of a library board. Included in such provisions is the following:

“* * * in all municipalities in which the schools are under the supervision of school boards or boards of school trustees or boards of school commissioners, two [2] members shall be appointed by such school board, one [1] for a term of three [3] years and one [1] for four [4] years * * *”

Under the last-referred to statute, prior to such reorganization of said school corporation, authority existed for the appointment of two members by the school board, or boards of school trustees, in any municipality comprising such library district. Where any such authority existed at the time of such reorganization of said school corporation, it would necessarily be transferred to and assumed by the new reorganized school corporation to be exercised by and through its board of school trustees. Said statutes make no requirement as to residence of the appointing authorities.

I am therefore of the opinion that where a school reorganization has combined towns and townships into a single school corporation, thus placing the schools from towns in which libraries are located under the jurisdiction of the school board of such reorganized school corporation, such new school board

would now appoint two members to the library boards of towns included in the new school district, even though all or some of the members of the school board are not residents of the library district.

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August 21, 1963

Judge Frank V. Dice, President
Indiana War Memorials Commission
World War Memorial
Memorial Plaza
Indianapolis, Indiana

Dear Judge Dice:

This is in response to your letter of August 1, 1963, wherein you request an Official Opinion. Your specific request is stated as follows:

“Does the Indiana War Memorials Commission have authority to receive gifts and donations of funds from those desiring to contribute to the establishment, maintenance and enlargement of a War Museum at the Memorial Place?”

“If the above question is answered in the affirmative, how are the funds to be handled?”

The creation, powers and duties of the Indiana War Memorials Commission are provided for in the Acts of 1957, Ch. 218, as found in Burns' (1961 Repl.), Section 59-1501 *et seq.* “Memorial Place,” referred to in your letter describes the land on a part of which is erected the Memorial Building, wherein the War Museum is located. Section 8 of said 1957 Act as found in Burns' (1961 Repl.), Section 59-1508 reads, in part, as follows:

“Said commission is hereby authorized and directed to erect and maintain in the city of Indianapolis * * * a suitable structure or structures *to commemorate the valor and sacrifice of the soldiers, sailors and marines*