bonds, is a debt of the rural school district in question, even through a portion thereof has been by force of law assumed by the city school district to which a portion of the rural school district has been attached, I am of the opinion that bonds to fund this debt should be issued by the rural school district. This would be true, in my opinion, even though the statute did not by its terms clearly import that a city or village school district receiving territory in the manner prescribed does not become obligated directly to a bondholder or a creditor of the district from which it receives such territory for any part of the obligations of that district. The terms of the statute clearly precludes the conclusion that any part of the original debt is at any time the debt of the city school disrict so far as the creditor is concerned. The liability of the city school district is to the rural school district. It is not that liability or duty that it is proposed to refund by the issuance of bonds, but the debt or liability flowing to the holders of the original bonds, which debt or liability is the debt of the rural school district.

Respectfully,
JOHN W. BRICKER,
Attorney General.

1591.

TENANT IN COMMON—MAY NOT PAY PROPORTIONATE SHARE OF TAXES ON REAL ESTATE UNLESS REMAINING TAX WHICH HAS NOT BEEN ENJOINED, IS PAID.

SYLLABUS:

By reason of the provisions of Section 2655 *of the General Code, a tenant in common, of real estate in Ohio, may not pay his proportionate share of the taxes charged against such real estate unless at the time of such payment, the remaining tax which has not been specifically enjoined, is paid.*

COLUMBUS, OHIO, September 18, 1933.

The Tax Commission of Ohio, Columbus, Ohio.

GENTLEMEN:—I am in receipt of your request for my opinion, which reads as follows:

> "Can a tenant in common, of real estate in Ohio, pay his proportionate share of the taxes charged against said real estate without paying the full amount charged thereon?"

Section 5690, General Code, referred to in your inquiry, reads as follows:

> "When a tract of land is owned by two or more persons, as joint tenants, co-partners, or tenants in common, and one or more of them has paid the tax, or tax and penalty charged or chargeable on his or their proportion of such tract, and one or more of those remaining has failed to pay his or their proportion of the tax, or tax and penalty, charged or chargeable on said land, and partition of the land is made between them, the tax, or tax and penalty, so paid, shall be deemed to have been paid on the proportion of such tract, set off to the person or persons, who paid his or their proportion of the tax, or tax and penalty."

Section 5693, General Code, which was originally a part of the same section, and therefore should properly be read and construed in pari materia with Section 5690, General Code, reads as follows:

> "A part owner, paying the tax on the whole tract or tracts of which he is part owner, shall have a lien on the shares or parts of the other part owner for the tax paid in respect to their shares or parts, which, with interest thereon, he shall be entitled to receive on sale or partition of such lands, and the collection of which, with interest, he may enforce as any other lien or charge."

Section 2655, General Code, which was enacted by the 89th General Assembly, reads:

> "No person shall be permitted to pay less than the full amount of taxes charged and payable for all purposes on real estate, except only when the collection of a particular tax is legally enjoined."

While it may be argued that the purpose of Section 2655, General Code, was to prevent a taxpayer from paying the taxes without at the same time paying one or more special assessments, the language of such section is clear and definite to the effect that no person shall be authorized to pay less than the full amount of taxes, and does not provide a taxpayer shall pay a portion of the tax. There is an elemental rule of statutory construction, that where the language of a statute is clear, the courts have no right to construe it. As stated by Robinson, J., in the case of *Smith* vs. *Bock,* 119 O. S. 101, 103:

> "We are asked to ascertain the intention of the legislature from facts extraneous to the act and extraneous legislation, and then to interpret that which the Legislature did enact as meaning that which we find, from such extraneous information and investigation, it intended to enact.
>
> This court, in the case of *Slingluff* vs. *Weaver,* 66 O. S. 621, declared:
>
> 'The intent of the legislature is to be sought first of all in the language employed, and if the words be free from ambiguity and doubt, and express plainly and clearly and distinctly, the sense of the law-making body, there is no reason 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 what it did enact. That body should be held to mean what it has plainly expressed, and hence no room is left for construction.' "

While it may be argued that the legislature had some other intent in mind than to prevent a part owner from paying his proportionate share of the taxes, such intent, if it existed, must be gathered from extraneous circumstances which would then be used for the purpose of modifying the clear and explicit language as contained in Section 2655, General Code.

There is also a rule of statutory construction that if two acts are so inconsistent that they can not be reconciled, the one enacted later in time, will control. However, I do not believe that such rule of construction has any bearing upon the interpretation of the statute in question since the only conflict that exists

between Sections 2655 and 5690, General Code, is by virtue of an inference from Section 5690, General Code. The language of Section 2655, General Code, would include a clear intent on the part of the legislature to eliminate such inference.

Specifically answering your inquiry, it is my opinion that by reason of the provisions of Section 2655 of the General Code, a tenant in common, of real estate in Ohio may not pay his proportionate share of the taxes charged against such real estate unless at the time of such payment the remaining tax which has not been specifically enjoined is paid.

Respectfully,
JOHN W. BRICKER,
Attorney General.

1592.

APPROVAL, TRANSCRIPT OF PROCEEDINGS RELATING TO SALE OF ABANDONED HOCKING CANAL LANDS IN FAIRFIELD COUNTY, OHIO.

COLUMBUS, OHIO, September 18, 1933.

HON. T. S. BRINDLE, *Director, Department of Public Works, Columbus, Ohio.*

DEAR SIR:—This is to acknowledge the receipt of your recent communication submitting for my examination and approval a certain transcript in duplicate of the proceedings relating to the sale to one Noah W. Snoke, of Lancaster, Ohio, of marginal tract No. 20 of abandoned Hocking Canal lands in the city of Lancaster, Ohio, not taken for street or highway purposes. The proceedings relating to the sale of this tract of land have been taken pursuant with authority of House Bill No. 417, enacted by the 89th General Assembly, 114 O. L. 536; and the marginal tract of abandoned canal lands here in question is, I am advised, a tract of such canal lands which is contiguous to and on the margin of the street or highway which the city of Lancaster, under the authority of said act, was authorized to lay out in and upon such abandoned canal lands.

Upon examination of the proceedings relating to the sale of this marginal tract of land as set out in the transcript and as indicated by the recitals therein contained, I find the same to be in conformity to the act of the legislature above referred to; and the legality of the same is hereby approved as is evidenced by my approval endorsed upon the transcript and upon the duplicate copy thereof, both of which are herewith returned.

If a description of this marginal tract of land can be made by metes and bounds from the plat thereof in your office, it is suggested that in the preparation of the deed conveying this land to Mr. Snoke such description be used in addition to the reference to the same as marginal tract No. 20 as delineated and described in the plat on file in your office and in that of the Governor and the Mayor of the city of Lancaster. I make this suggestion for the reason that it does not appear that the plat of the marginal tracts of canal lands formed by the laying out of the street in the city of Lancaster, has been filed of record in the office of the Recorder of Fairfield County.

Respectfully,
JOHN W. BRICKER,
Attorney General.