

ing the language of Section 26 with relation to the amendment of remedial statutes, that the intention must be manifested by express provision, rather than by inference, in order to make remedial statutes applicable to pending proceedings.

In the case of *Kelley vs. State*, 94 O. S. 331, the first and second branches of the syllabus are as follows:

"1. The amendment of Section 1637, General Code, passed February 6, 1914 (104 O. L., 179), withdrawing the jurisdiction of the court of insolvency of Hamilton County after December 31, 1914, in actions for divorce and alimony, read and construed as though Section 26, General Code, were a part thereof.

2. The Legislature having failed to incorporate in such amending and repealing act an express provision making it applicable to pending actions, those actions by virtue of the provisions of Section 26, General Code, are exempt from the operation of the amended statute. The insolvency court of Hamilton County, therefore, was authorized to hear and determine all actions in divorce and alimony which were pending in that court December 31, 1914."

I accordingly feel that both the statutes and their interpretation by the court are such that the amendment of a section, although remedial in character, has no effect upon pending proceedings unless otherwise clearly expressed by the Legislature. There being no such expression in this instance, it necessarily follows that, since the proceeding was in this instance pending at the time the Norton-Edwards Act went into effect, the right of appeal provided by the amendment therein of Section 1189, General Code, is not available.

You are accordingly advised that no appeal lies from the decision of the Director of Highways establishing additional roads or highways as a part of the state highway system or making any changes in existing highways or roads comprising the state highway system, where the proceeding as the result of which the order is made was pending at the effective date of the Norton-Edwards Act.

Respectfully,  
EDWARD C. TURNER,  
*Attorney General.*

2220.

BONDS—CITY MAY ISSUE SAME FOR PURCHASE OF STREET SIGNS.

*SYLLABUS:*

*A municipal corporation may legally issue bonds for the purpose of purchasing and installing street signs.*

COLUMBUS, OHIO, June 11, 1928.

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

GENTLEMEN:—This will acknowledge receipt of your recent communication as follows:

"Neither Section 3939, G. C., nor any other section of the General Code, to our knowledge, specifically authorizes municipal corporations to purchase street signs.

Question: May a municipal corporation legally issue bonds for the purpose of purchasing and installing street signs?"

As you suggest, there is no specific authority for the purchase of street signs by municipal corporations. Street signs are not, it is true, mentioned in Section 3939, General Code. In view of the fact that your question inquires as to the authority to issue bonds for the purpose of purchasing and installing street signs, it is pertinent to consider the change made by the last Legislature in Section 3939. Prior to its amendment the section commenced as follows:

"When it deems it necessary, the council of a municipal corporation, by an affirmative vote of not less than two-thirds of the members elected or appointed thereto, by ordinance, may issue and sell bonds in such amounts and denominations, for such period of time and at such rate of interest, not exceeding six per cent per annum, as said council may determine and in the manner provided by law, for any of the following specific purposes:

\* \* \*"

Thereafter were enumerated the various specific purposes for which bonds might be issued.

The 87th General Assembly, however, enacted what is known as the Uniform Bond Act and, as a part thereof, amended Section 3939, supra. The section no longer purports to confer any specific authority for the issuance of bonds. It now commences as follows:

"Each municipal corporation in addition to other powers conferred by law shall have power;

\* \* \*"

Thereafter are enumerated the various powers granted to municipal corporations, particularly with reference to the acquisition of property and the construction of buildings and other improvements. Among the provisions enumerated is the following:

"(16) To open, construct, widen, extend, improve, resurface or change the line of any street or public highway;"

From the foregoing it is obvious that, by reason of the change in the language of Section 3939, it is necessary to look elsewhere for the authority of municipal corporations to issue bonds. As a part of the Uniform Bond Act the Legislature enacted Section 2293-2, General Code, which is as follows:

"The taxing authority of any subdivision shall have power to issue the bonds of such subdivision for the purpose of acquiring or constructing, any permanent improvement which such subdivision is authorized to acquire or construct. But no subdivision or other political taxing unit shall create or incur any indebtedness for current operating expenses, except as provided in Sections 2293-3, 2293-4, 2293-7 and 2293-24 of the General Code. The estimate of the life of permanent improvements proposed to be acquired, constructed, improved, extended or enlarged from the proceeds of any bonds shall be made in any case by the fiscal officer of the subdivision and certified by him to the bond-issuing authority and shall be binding upon such authority."

Accordingly, a municipality has the right to issue bonds for the purpose of acquiring or constructing any permanent improvement which the municipality is authorized to acquire or construct, subject to the limitation hereinafter discussed.

By the terms of Section 3939, *supra*, specific authority is given to construct the improvements therein mentioned, but it is to be noted that the enumeration does not purport to set forth all of the powers of a municipality to the exclusion of others, since the above quoted portion of the section clearly shows that the granted powers are "in addition to other powers conferred by law". While there is no specific authority in the statutes for the construction of street signs, I have no hesitancy in saying that such an improvement is so obviously a matter of home rule that municipalities clearly have the power, under the home rule amendments to the constitution to make such an improvement. No one could contend that street signs are not generally regarded as a necessity in our modern municipalities, and consequently the expenditure of municipal funds therefor is proper. Since the municipality has the authority to expend funds for such construction, it follows from the provisions of Section 2293-2, *supra*, that it likewise has authority to issue bonds therefor.

Even aside from the question of home rule, however, it is my opinion that the authority contained in paragraph (16) of Section 3939, above quoted, is sufficient to authorize the construction of street signs by municipalities as an incident of the power given to improve streets and highways, since the installation of street signs is a proper incident of such improvement.

The authority to issue bonds for street signs must, however, be read in connection with the statutory definition of "permanent improvement" as it is found in Section 2293-1, General Code. You will observe that the authority to issue bonds conferred in Section 2293-2 is for the acquisition or construction of any permanent improvement. The term is defined in the preceding section as follows:

"\* \* \*

(e) 'Permanent improvement' or 'improvement' shall mean any property, asset or improvement with an estimated life or usefulness of five (5) years or more, including land and interests therein, and including reconstructions, enlargements and extensions thereof having an estimated life or usefulness of five years or more. Reconstruction for highway purposes shall be held to include the resurfacing but not the ordinary repair of highways.

\* \* \*"

Consequently the estimated life or usefulness of street signs must be five years or more.

Specifically answering your question, I am of the opinion that a municipal corporation may legally issue bonds for the purpose of purchasing and installing street signs.

Respectfully,

EDWARD C. TURNER,  
*Attorney General.*