

Prior to this enactment, when territory was detached from a township and annexed to a municipal corporation, the law made no provision either for a division of the funds belonging to the two subdivisions or for an apportionment of the indebtedness of the subdivisions affected by the transfer. It was therefore the evident purpose of this enactment to remedy this defect in the law, and to make provision whereby an equitable adjustment of the finances of two subdivisions, when territory is detached from one and annexed to the other, might be made, such for instance, as the situation which has arisen with respect to the annexation of a portion of Tallmadge township known as Goodyear Heights to the city of Akron.

That this apparent purpose is accomplished by the terms of the statute is clear, when the statute is read in the light of the purpose for which it was passed and consideration is given to its plain and unambiguous terms.

The words above italicized constitute a substantive clause which modifies the term "municipal corporation" and does not relate back to "portions of a township" or "portions of more than one township" as has suggested itself to your examiner and no doubt prompted his inquiry. This will more clearly appear to you by taking into consideration the correct punctuation of the sentence of which the italicized words form a part. Your examiner has no doubt been confused by reason of having been furnished a copy of the act which was incorrectly punctuated. I note in his communication he has placed a comma after the word "corporation" in the third line of the quotation from the statute and after "debt" in the fifth line, which if correct, would be somewhat confusing.

The correct punctuation is as I have indicated herein, in the light of which, the terms of the statute are clear and unambiguous.

I am therefore of the opinion that the clause "upon which the tax levies made by the trustees of such township or townships for the payment of the township debt, do not apply" has reference to the municipal corporation to which is to be attached "the portion of a township" or "portions of more than one township" and with reference to the situation about which your examiner inquires, it does not relate to the portion of Tallmadge township which is being annexed to the city of Akron. Therefore, when the county auditor makes the apportionment as provided for in the act and it is accepted by ordinance or resolution of the legislative authority of the city of Akron, the annexation will be complete.

Respectfully,

EDWARD C. TURNER,

Attorney General.

718.

REAL ESTATE—ACQUISITION OF, ADJACENT TO COURT HOUSE—ISSUANCE OF BONDS—WHEN BONDS NEED NOT BE ISSUED.

SYLLABUS:

1. *Where it is proposed to issue bonds for the acquisition of additional real estate adjacent to a court house, for the purpose of affording light, air, protection from fire, suitable surroundings, ingress and egress, it is necessary, under the provisions of section 2293-16 of the General Code, to secure authority therefor by a vote of the electors, in the event that the amount thereof exceeds twenty thousand dollars.*

2. *In the event that there are available sufficient funds to acquire the necessary real estate for the purposes mentioned without the necessity of the issuance of bonds, the board*

of county commissioners has authority to make such purchase by virtue of the provisions of section 2433 of the General Code, as amended in House Bill No. 1, after the effective date thereof.

COLUMBUS, OHIO, July 11, 1927.

HON. RUSSELL K. MCCURDY, *Prosecuting Attorney, Portsmouth, Ohio.*

DEAR SIR:—This will acknowledge receipt of your recent communication in which you ask in substance the following question:

Where there is a county court house already in existence, may the county commissioners, under the provisions of House Bill No. 1, issue bonds in excess of the sum of twenty thousand dollars for the purpose of purchasing real estate adjoining the court house site in order to afford light, air, protection from fire, suitable surroundings, ingress and egress, without submitting such bond issue to a vote of the electors?

As a part of House Bill No. 1, section 2433 of the General Code was amended to read as follows:

“The taxing authority of any county in addition to other powers conferred by law shall have power to purchase, appropriate, construct, enlarge, improve, rebuild, equip and furnish a court house, county offices, jail, county infirmary, detention home, public market houses, county children’s home and other necessary buildings, and sites therefor; also, such real estate adjoining an existing site as such taxing authority may deem necessary for any of the purposes aforesaid, including real estate necessary to afford light, air, protection from fire, suitable surroundings, ingress and egress.”

The amendment made was specifically to cover a case of the character which you present. The added authority therein granted was for the purpose of purchasing or appropriating real estate deemed necessary to afford “light, air, protection from fire, suitable surroundings, ingress and egress.”

This section must, however, be read in connection with the remainder of the act and especially in connection with section 2293-16 of the Code, as enacted in House Bill No. 1. This section, after stating the limitation of the net indebtedness of a county and the method of ascertaining such limitation, contains the following proviso:

“Provided that, except by vote of the electors, bonds shall not be issued by any county in an amount exceeding twenty thousand dollars in any period of five years, for the acquisition, construction, improvement, enlargement or extension of any one county building, including the acquisition of a site therefor, but this limitation shall not apply to buildings for a district consisting of two or more counties.”

The language of this proviso is quite broad and evinces a clear intention to limit the authority of the county commissioners to incur indebtedness without securing the approval of the electors. I cannot see logically how the issuance of bonds for the purposes which you enumerate can reasonably be said to be outside of the terms of this specific restriction. Certainly the purchase of additional real estate for the benefit of the court house constitutes an improvement of such building within the terms of the proviso.

I am therefore of the opinion that, where it is proposed to issue bonds for the acquisition of additional real estate adjacent to a court house, for the purpose of affording

light, air, protection from fire, suitable surroundings, ingress and egress, it is necessary, under the provisions of section 2293-6 of the General Code, to secure authority therefor by a vote of the electors, in the event that the amount thereof exceeds twenty thousand dollars.

I note, however, that you also ask whether a purchase of this character can be made without a bond issue.

Section 2293-16 of the General Code, to which I have referred, is a limitation solely on the authority to issue bonds. In the event that there are available sufficient funds to acquire the real estate in question without the necessity of issuing bonds, the county commissioners may proceed under authority of section 2433 without submitting the matter to a vote of the electors. This is, however, as I have said, contingent upon the availability of sufficient funds from sources other than a bond issue and such authority may not be exercised until after the effective date of House Bill No. 1.

Respectfully,

EDWARD C. TURNER,
Attorney General.

719.

GENERAL CORPORATION ACT—ISSUANCE OF SHARES WITHOUT PAR VALUE—POWER OF INCORPORATORS UNDER SECTION 4 OF ACT.

SYLLABUS:

Under the provisions of Section 17 of the new general corporation act, shares without par value may be issued from time to time for varying amounts of consideration, which amounts are to be determined in any one of the methods provided in sub-paragraph (b) of such section, provided that all shares of the same class authorized by the board of directors to be issued at the same time, shall be issued for the same amount. The incorporators may, under Section 4 of the new general corporation act, provide in the articles of incorporation that all shares without par value shall be issued at a fixed amount and such specific provision in the articles would preclude any change in the amount of consideration to be received without an amendment of the articles permitting such change.

COLUMBUS, OHIO, July 11, 1927.

HON. CLARENCE J. BROWN, *Secretary of State, Columbus, Ohio.*

DEAR SIR:—This will acknowledge receipt of your recent communication in which you enclose copy of letter received from attorneys, which is as follows:

“Sub-paragraph (b) of Section 17 of the new corporation code provides that the amount of consideration for each share shall be equal in respect of all shares of the same class ‘authorized to be issued at the same time.’ Section 4 provides that the Articles shall contain the maximum number of shares which the corporation ‘is authorized to have outstanding.’ Section 19 provides, ‘The Board of Directors shall have authority * * * to cause the shares described in the Articles to be issued at such time or times as it may determine.’

If the above quoted words from Section 17 mean that out of any maximum number of shares stipulated in the Articles such shares as the Directors may authorize to be issued at any particular time shall all be issued for the