

reserves the right to erect at a place on said twelve acres to be selected by them a suitable memorial to the memory of the donors of said real estate which expense of such memorial to be paid by the said The Preble County Historical Society."

I am advised that the above described tract of land has been conveyed to the State of Ohio, as an addition to the St. Clair State Park in Preble County, Ohio, the title of which is owned and held by the state, and that this additional tract of land has been accepted by The Ohio State Archaeological and Historical Society on behalf of the state pursuant to the authority of House Bill No. 35, enacted as a law by the 90th General Assembly in special session September 19, 1933.

Upon examination of this deed, I find that the same has been properly executed and acknowledged by the grantors, and that the form of said deed is such, that the same is effective to convey this property to the State of Ohio, free and clear of all encumbrances whatsoever, and subject only to the conditions and reservations therein contained. With respect to these conditions and reservations, it may be observed that this conveyance is a donation so far as the State of Ohio is concerned; and in this view, such conveyance, under the provisions of Section 18, General Code, may be accepted, notwithstanding such conditions and reservations.

No abstract of title was submitted with this deed; and, for this reason, I am not passing upon the title of John T. Conley and Laura Conley to this property.

Upon the consideration above noted, however, I am approving this deed as is evidenced by my approval endorsed thereon, and this deed with my approval is herewith returned to you.

Respectfully,

JOHN W. BRICKER,  
*Attorney General.*

2229.

HOUSING AUTHORITY—COUNTY COMMISSIONERS MAY APPROPRIATE THEREFOR FROM GENERAL FUND OR POOR RELIEF FUND WHEN.

*SYLLABUS:*

*County commissioners may appropriate available funds in the general fund of the county for the purpose of paying expenses of organizing and supervising the work of the housing authority organized pursuant to the provisions of House Bill 19 of the 90th General Assembly, first special session, under section 5 of said act, or such commissioners may appropriate funds for such purpose out of the poor relief funds of the county but in the event appropriation is made from such poor relief funds the approval of the State Relief Commission must be secured.*

COLUMBUS, OHIO, January 29, 1934.

*State Relief Commission, Columbus, Ohio.*

GENTLEMEN:—Your letter of recent date is as follows:

"For the guidance of the State Relief Commission, an opinion is requested upon the following question:

May the loan authorized to be made by county commissioners, under section 5 of House Bill No. 19, enacted by the 90th General Assembly, in special session, August 30, 1933, for the purpose of paying the expenses of organizing and supervising the work of the local housing authority, be made out of the general fund of the county?"

House Bill No. 19, to which you refer, as enacted by the 90th General Assembly, first special session, is entitled "An act authorizing creation of a public authority to aid in housing families of low incomes, in eliminating unsanitary and congested housing conditions and otherwise promoting the public health, safety, morals and general welfare, and declaring an emergency." Section 5 of this act provides as follows:

"The county commissioners of the county in which such authority has been created are hereby authorized to appropriate and loan to such housing authority a sum not exceeding twenty thousand (\$20,000.00) dollars for the purpose of paying expenses of organizing and supervising the work of the authority during the period of initial construction of the proposed projects, and such appropriation may be made out of the poor relief funds of the county with the approval of the state relief commission. Such loan to be authorized by a resolution of said county commissioners, which shall set forth the terms and time of repayment thereof."

There is little doubt but that if the foregoing section merely authorized the county commissioners to appropriate for the purpose therein set forth without any mention of any particular fund, such appropriation would, under the Budget Law, be properly made from the general fund. However, in view of the clause added to the sentence authorizing such appropriation without reference to any fund, which clause provides that "such appropriation may be made out of the poor relief funds of the county with the approval of the state relief commission," the question becomes one of whether this additional clause couched in purely permissive language, may be said to be a limitation upon the general authority to appropriate first set forth therein.

The section confers power not heretofore granted to county commissioners in that the appropriation therein authorized for poor relief is a loan. There is a rule of statutory construction which has often been recognized by the courts that power conferred upon public officials not theretofore granted may be exercised only in the manner set forth in the act conferring such new power. Such statutes must be strictly followed. This rule of statutory construction is set forth in Lewis' Sutherland Statutory Construction, Vol. 2, second edition, pages 1135 and 1136, as follows:

"When a statute is passed authorizing a proceeding which was not allowed by the general law before, and directing the mode in which an act shall be done, the mode pointed out must be strictly pursued. \* \* \* \*  
Enabling statutes, on the principle of *expressio unius est exclusio alterius*, impliedly prohibit any other than the statutory mode of doing the acts

which they authorize. This is illustrated by the numerous cases where statutory rights and remedies are given in respect to which the statute must be strictly pursued. When a statute in granting a new power prescribes how it shall be exercised, it can lawfully be exercised in no other way."

In view of this principle of statutory construction, there is little doubt but that if the appropriation is to be made out of the poor relief funds of the county, approval of the State Relief Commission must be secured; any appropriation from the poor relief fund without such approval would be clearly invalid. It does not necessarily follow, however, by applying these principles to the question which you present, that the section authorizes the commissioners to appropriate only from the poor relief funds with the approval of the State Relief Commission.

The first sentence of section 5, *supra*, conferring this authority to appropriate and loan discloses that at the outset appropriations are authorized to be made for the purpose therein set forth without any limitation as to or mention of any fund. This clause, which is complete in itself, is followed by a comma, after which appears what seems to me to be purely an additional grant of authority—the authority to appropriate from the poor relief funds of the county with the approval of the State Relief Commission. It would have been extremely easy for the legislature in enacting the section of the law here under consideration to simply provide that the county commissioners may appropriate and loan for the purpose set forth from the poor relief funds of the county with the approval of the State Relief Commission. Under the rule of statutory construction that new powers may be exercised only in strict accordance with the method set forth, there would be little doubt but that appropriations could be made only from the poor relief funds. Not having so enacted this section, it would appear that the legislature did not intend to so limit the county commissioners in that grant of authority to appropriate for the purpose specified.

Questions of statutory construction of this nature are frequently difficult, not only in view of apparent conflict of authorities and fine distinctions between specific cases, but also because of occasional difficulties in determining the particular established rules of statutory construction applicable to a given case. In the last analysis, the primary purpose of all statutory construction is to ascertain the intention of the legislature. All rules of construction have been established for the purpose of assisting the courts in reaching that end. As stated by Lord Campbell in *Liverpool Bank vs. Turner*, 30 L. J. Ch. 380, "It is the duty of courts of justice, to try to get at the real intention of the legislature by carefully attending to the whole scope of the statute to be construed." The purposes of the enactment, the ends to be accomplished, and the consequences that may result from one meaning rather than another must be given consideration. *Upshur vs. Baltimore City*, 94 Md. 743; 51 Atl. 953.

The consequences which would result from a holding to the effect that this appropriation may be only made from the poor relief fund would not appear to be especially material, this in view of the fact that, conceding the poor relief funds to be special funds as entirely distinct from the general fund, the same ends could be accomplished by transferring the amount which would otherwise be appropriated directly from the general fund to the specific poor relief funds. Section 5625-13, General Code. It would appear therefore that whichever way this section were to be interpreted, the ends to be accomplished thereunder could

not be substantially interfered with. The interpretation which I have already indicated would in my judgment directly effectuate what I believe to have been the intent of the legislature in the enactment of this section.

In specific answer to your question, it is my opinion that county commissioners may appropriate available funds in the general fund of the county for the purpose of paying expenses of organizing and supervising the work of the housing authority organized pursuant to the provisions of House Bill 19 of the 90th General Assembly, first special session, under section 5 of said act, or such commissioners may appropriate funds for such purpose out of the poor relief funds of the county but in the event appropriation is made from such poor relief funds the approval of the State Relief Commission must be secured.

Respectfully,

JOHN W. BRICKER,  
*Attorney General.*

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2230.

APPROVAL, NOTES OF CANAL WINCHESTER VILLAGE SCHOOL DISTRICT, FRANKLIN COUNTY, OHIO—\$6,000.00.

COLUMBUS, OHIO, January 29, 1934.

*Retirement Board, State Teachers Retirement System, Columbus, Ohio.*

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2231.

APPROVAL, NOTES OF THE CANTON CITY SCHOOL DISTRICT, STARK COUNTY, OHIO—\$250,000.00.

COLUMBUS, OHIO, January 29, 1934.

*Retirement Board, State Teachers Retirement System, Columbus, Ohio.*

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2232.

APPROVAL, NOTES OF WARREN TOWNSHIP RURAL SCHOOL DISTRICT, TRUMBULL COUNTY, OHIO—\$3,000.00.

COLUMBUS, OHIO, January 29, 1934.

*Retirement Board, State Teachers Retirement System, Columbus, Ohio.*