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BONDS—ISSUED FOR MUNICIPAL UNIVERSITY BUILDING IMPROVEMENT — AFTER PURPOSES FULLY ACCOMPLISHED, ANY UNUSED INTEREST EARNED ON PROCEEDS OF BONDS, AFTER PROCEEDS PAID TO BOARD OF DIRECTORS, PURSUANT TO SECTIONS 7909, 7910 G. C. SHOULD BE PAID OVER TO MUNICIPALITY WHICH ISSUED BONDS—DEPOSIT—SINKING FUND OR BOND RETIREMENT FUND FROM WHICH BONDS PAYABLE.

SYLLABUS:

After the purpose for which municipal university building improvement bonds were issued have been fully accomplished, any unused interest earned on the proceeds of the bonds after such proceeds were paid to the board of directors pursuant to the provisions of sections 7909 and 7910, General Code, should be paid over to the municipality which issued the bonds, and placed in the sinking fund or bond retirement fund from which the bonds are payable.

Columbus, Ohio, February 5, 1943.

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

Gentlemen:

Your letter of recent date relating to my former opinion No. 5224, addressed to your Bureau under date of June 15, 1942, has been received.

In that opinion you were advised that interest earned on the proceeds of a bond issue after such proceeds were paid over to the board of directors of a municipal university pursuant to the provisions of Sections 7909 and 7910, General Code, may be used by the board "for the purposes of such bond issue." The opinion was rendered in response to your question, "May such earnings be used to augment the bond funds available for construction of the improvement?", and the disposition to be made of any unused interest after the purposes for which the bonds were issued have been accomplished, was not involved.

You now advise me that the purposes for which the bonds were issued were fully accomplished approximately ten years ago, and that the board of directors now has in its possession a substantial amount of unused interest, and the question you desire answered is what disposition may be made of such interest.

It is now and ever since the enactment of the Uniform Bond Act has been the general rule in this state that the proceeds of a bond issue may be used only for the purposes for which the bonds are issued, unless their application to other uses is specially provided for. This rule is stated in Sections 2293-29 and 5625-10, General Code.

The purposes for which the taxing authority of a municipal corporation having a university may issue bonds, and the uses to which the bond funds may be applied, are set out in Section 7910, General Code, as follows:

"The taxing authority of a municipal corporation having a university supported in whole or in part by municipal taxation may provide for the construction, improvement, enlargement, equipping and furnishing of buildings for such municipal university. In the use of funds provided for such purposes, whether from taxation or the issue of bonds, all power and control shall be vested in the board of directors of the municipal university. Such board shall make all contracts necessary for the construction, improvement, enlarging, equipping and furnishing thereof; supervise their erection, completion and equipment and issue proper vouchers for the payment out of such fund of money due under such contracts and for any other expenses connected with the erection, completion and equipment of such building."

It will be noted, as I have already stated, that the statute not only provides the purposes for which the bonds may be issued, but also the purposes for which the funds may be used by the board of directors, namely, constructing, improving, enlarging, equipping, and furnishing municipal university buildings, and the payment of other expenses connected therewith.

Since Section 7910 contains no provision authorizing the use of the bond funds by the board of directors for any uses or purposes other than those referred to therein, it would follow that the proceeds of any bond issue paid over to the board should be confined by it to the uses and purposes referred to in the statute.

In my former opinion, No. 5224, supra, I referred to the rule of law that interest follows the fund which creates it, in the absence of a statutory provision to the contrary, and cited the Annual Report of the Attorney General for 1911-1912, A-284, page 281, to that effect. That being the case, the interest involved in your inquiry may be used only for the purposes for which the principal may be used, and any unused portion should be disposed of in the same manner as any unused portion of the principal.

It would seem therefore that inasmuch as the proceeds of the bond issue were paid over to the board of directors for one or more of the specific statutory purposes of constructing, improving, enlarging, equipping and furnishing certain buildings, and for the payment of expenses connected therewith, all of which purposes were fully completed and satisfied approximately ten years ago, any unused balance of either principal or interest should be turned over to the municipality which issued the bonds, and placed in the sinking fund or bond retirement fund from which the bonds are payable. Had the principal of the proceeds of the bond issue not been paid over to the board of directors in the first place, both the interest accrued and earned would have been paid into the sinking fund or bond retirement fund, under the provisions of Sections 2293-29 and 5625-10, General Code, and the same disposition would have been made of any unused portion of the principal under the provisions of paragraph "a" of Section 5625-13, General Code.

You are therefore advised that the unused balance of the interest referred to in your letter should be returned to the municipal corporation which issued the bonds, and placed in the sinking fund or bond retirement fund from which the bonds are payable.

Respectfully,

THOMAS J. HERBERT,  
Attorney General.