

OPINION NO. 67-013**Syllabus:**

When a municipality whose boundaries are coterminous with those of a township, annexes territory in an adjoining county, and then petitions for a change in township lines in that adjoining county to conform to the municipal boundaries, pursuant to Section 503.07, Revised Code, the residents of the annexed portion of the adjoining county who otherwise qualify, remain electors of that county and become electors of the municipality who vote at municipal precinct polling places, but cease to be electors of the township from which the territory which included their residence was annexed, and are not electors for any township offices or issues, since the political existence of their new township is merged into the municipal government by operation of Section 703.22, Revised Code. Opinion No. 4642, Opinions of the Attorney General for 1954, page 648, third branch of the syllabus, approved and followed in part.

To: George Cleveland Smythe, Delaware County Pros. Atty., Delaware, Ohio
By: William B. Saxbe, Attorney General, January 25, 1967

Your request for my opinion reads as follows:

"A few years ago the City of Westerville withdrew from the Township of Blendon, Franklin County, Ohio, and created a new City-Township of Westerville, Franklin County, Ohio.

"On August 5, 1963 several landowners residing in Genoa Township, Delaware County, presented a petition to the Board of County Commissioners of Delaware County, asking that certain territory situated entirely in Genoa

Township, Delaware County be annexed to the City of Westerville. Heretofore the corporate limits of the City-Township of Westerville did not extend into Delaware County.

"After statutory proceedings the Delaware County Commissioners granted the annexation.

"On April 7, 1964 the City of Westerville presented a petition to the Board of County Commissioners of Delaware County 'for a change of the township lines of Genoa Township in order to make them identical with the limits of the City of Westerville within said Genoa Township, thereby establishing the Township of Westerville within the County of Delaware, such township lines to be identical with the limits of said municipal corporation."

"Our questions are as follows:

"1. Where should the electors, residing in the portion of, what was formerly Genoa Township, Delaware County, but which has now been annexed to the City of Westerville, (Franklin County) and which then later became the Township of Westerville within the County of Delaware and at the same time a part of a municipal corporation, the City-Township of Westerville, vote?

"2. Are these residents, electors of Genoa Township who should vote in Genoa Township, Delaware County precincts, or are they electors of Westerville City Township, who should vote in Westerville precincts?

"3. Are these electors entitled to vote for Genoa Township (Delaware County) Trustees and for Genoa Township local issues?

"4. Are these electors entitled to vote on Delaware County wide issues and for election of Delaware County officials?

"5. What election procedures should be followed in this portion of Genoa Township, now a part of the City-Township of Westerville?"

I shall presume the Board of County Commissioners acted upon the petition of the City of Westerville of April 7, 1964, as required by Section 503.07, Revised Code. So presuming such action, it is my opinion that the City of Westerville is all one township, straddling the county line; and not two separate townships, one in each county. While the law of Ohio clearly sets forth the manner in which townships are created, as political and geographic entities, and the manner in which township governments are to function, nowhere in our constitution, statutes, or ruling case law is a township restricted by definition as constituting a geographical subdivision lying solely within one county, any more than the same proposition would be applicable to a municipal cor-

poration. In fact, the first phrase of Section 503.20, Revised Code, clearly implies a township may encompass territory in more than one county, where it is stated:

"If parcels of a township have been attached to territory in different counties, * * *."

Lending further weight to the proposition that Westerville is but one township in both counties, is Section 503.14, Revised Code, which provides:

"When the change of boundaries of townships is required by reason of the extension of the limits of a municipal corporation, such change shall be made by annexation to the township in which the municipal corporation or the greater part of it was previously situated, of such parts of other townships as are covered by such extension."

Since Westerville had already withdrawn from Blendon Township in Franklin County, prior to the annexation of territory in Delaware County, it had thus become a township unto itself. The similar withdrawal of its newly annexed territory in Delaware County from Genoa Township was then, pursuant to Section 503.14, supra, an annexation to the township to conform with the annexation to the municipal corporation.

Section 703.22, Revised Code, states in pertinent part:

"When the limits of a municipal corporation become identical with those of a township, all township offices shall be abolished, and the duties thereof shall be performed by the corresponding officers of the municipal corporation, * * *"

By operation of Section 703.22, Revised Code, upon completion of proceedings under Section 503.07, supra, the governmental functions of the municipal corporation and the township "merge," and by abolition of township offices, the township ceases to constitute more than a legal fiction in every sense save geographic, for it becomes supplanted by the functioning of the municipal government.

In opinion No. 4642, Opinions of the Attorney General for 1954, page 648, the third branch of the syllabus reads in pertinent part:

"3. Where a township is completely within the limits of a municipality and there is an identity in whole or in part of township and municipal limits, Section 703.22, Revised Code, becomes operative and all township offices are abolished, * * *"

Since the territory annexed by the city-township from the other township ceases to be a part of such other township, the electors residing therein cease to be township electors and be-

come municipal electors who should vote at municipal precinct polling places. For physical location of the polling places, the board of elections should be guided by the provisions of the second paragraph of Section 3501.18, Revised Code, which provides in pertinent part:

"In an emergency the board may provide more than one polling place in a precinct. In order to provide for the convenience of the voters, the board may locate polling places for voting or registration outside the boundaries of precincts, provided that the nearest public school or public building shall be used if the board determines it to be available and suitable for use as a polling place. * * *"

Therefore, it is my opinion, and you are advised, that where a municipality whose boundaries are coterminous with those of a township, annexes territory in an adjoining county, and then petitions for a change in township lines in that adjoining county to conform to the municipal boundaries, pursuant to Section 503.07, supra, the residents of the annexed portion of the adjoining county who otherwise qualify, remain electors of that county and become electors of the municipality, who vote at municipal precinct polling places, but cease to be electors of the township from which the territory which included their residence was annexed, and are not electors for any township offices or issues, since the political existence of their new township is merged into the municipal government by operation of Section 703.22, supra. Opinion No. 4642, Opinions of the Attorney General for 1954, page 648, third branch of the syllabus, approved and followed in part.