

I have passed the question of the purchase of the \$15,300.00 of common stock by the corporation, because of the statement in the statement of facts that the debts have been paid and that all stockholders have ratified the action and have agreed to and voted for the plan of reorganization.

I can see no objection to the surrender by the corporation of 85 per cent of this \$15,300.00 of common stock, and the further reduction of the stated capital in the sum of \$13,005.00.

When the foregoing certificates, or a certificate combining the above amendments and reductions have been filed, it is my opinion that the corporation will have accomplished the desired result and if certificates are presented to you substantially in the form as stated above, it is my opinion that you should accept and file the same.

Respectfully,

EDWARD C. TURNER,

Attorney General

756.

BOARD OF EDUCATION—CITY DISTRICT—ANNEXATION OF TERRITORY—INDEBTEDNESS.

SYLLABUS:

When territory is annexed to a city, such territory thereby becomes a part of the city school district, and the legal title to the school property in such territory for school purposes becomes vested in the board of education of the city school district. Any indebtedness on the school property in the territory annexed should be assumed by the board of education of the city school district, but where there is no school property in the territory annexed, there is no provision for the city school district to assume any portion of the indebtedness.

COLUMBUS, OHIO, July 21, 1927.

HON. W. S. DUTTON, *Prosecuting Attorney, Lancaster, Ohio.*

DEAR SIR:—This will acknowledge receipt of your recent communication which reads:

“More than two years ago the people residing in a certain described section of Hocking Township, Fairfield County, Ohio, petitioned for and were annexed to the City of Lancaster, Ohio.

Hocking Township at that time had a bonded indebtedness of \$11,000.00 for school bonds.

The taxable valuation of the annexed territory was \$580,000.00.

The annexed territory was not a municipality but a rural suburb.

Please inform me if in your opinion the city of Lancaster is liable in any way for the payment of their proportionate share of the said bonded indebtedness of the annexed territory.”

Your attention is called to Section 4690 of the General Code, which reads as follows:

“When territory is annexed to a city or village, such territory thereby becomes a part of the city or village school district, and the legal title to school property in such territory for school purposes shall be vested in the

board of education of the city or village school district. Provided, however, if there be any indebtedness on the school property in the territory annexed, the board of education of the city or village school district, shall assume such indebtedness and shall levy a tax annually sufficient to pay such indebtedness and shall pay to the board of education of the school district or districts from which such territory was detached, the amount of money collected from such levy as it becomes due."

The above section means that there must be in the first instance an annexation of territory outside of a city or village to such city or village for municipal purposes. Then it follows that such territory automatically becomes a part of the city or village school district and the legal title to school property in such territory for school purposes becomes vested in the board of education of the city or village school district.

Before the amendment of Section 4690, General Code, 109 Ohio Laws, page 588, said section read as follows:

"When territory is annexed to a city or village, such territory thereby becomes a part of the city or village school district, and the legal title to school property in such territory for school purposes shall remain vested in the boards of education of the school district from which such territory was detached until such time as may be agreed upon by the several boards of education, when such property may be transferred by warranty deed."

Said Section 4690 as amended, 109 Ohio Laws 588, reads as herein first above quoted and it is evident now that upon the annexation to a city or village the territory annexed thereby becomes a part of the city or village school district, and the legal title to school property in such annexed territory for school purposes becomes vested in the board of education of the city or village school district. In addition said amended section provides that if there be any indebtedness on the school property of the territory annexed, the board of education of the city or village school district shall assume such indebtedness and shall levy a tax annually sufficient to pay such indebtedness. It is further provided in said section that the money from said tax levy shall be paid to the board of education of the school district or districts from which such territory was detached, when the same is collected from said levy of taxes.

Under the provisions of Section 4690, *supra*, it is evident that, when a portion of Hocking Township was annexed to the City of Lancaster, said territory became a part of the city school district and the legal title to school property in said portion of Hocking Township for school purposes became vested in the board of education of Lancaster City School District.

Upon my request for further information as to the purpose of the indebtedness for which the school bonds were issued, and also as to whether any school buildings are located upon the territory annexed, your reply was that said bonds were issued for general running expenses, dues to state teachers' retirement fund and for tuition to various boards of education. You further stated that there are no school buildings located within the territory annexed.

As Section 4690, General Code, provides that the board of education of the city or village school district shall assume the indebtedness on the school property annexed the provisions of said section do not apply in the instant case as there are no school buildings within the territory annexed. Nothing is said in this section relative to a division of indebtedness other than indebtedness on the school property located within the annexed territory, which indebtedness is assumed by the annexing district.

An opinion of this Department reported in Opinions of the Attorney General, 1926, at page 424, construing Sections 4690 and 4696, General Code, after reviewing the history of said sections reads:

"It will be noted that again no mention is made of a division of funds or indebtedness in cases in which municipalities annex territory. The act of the legislature in striking from the legislation relating to the annexation of territory to a municipal school district the apportionment of funds and indebtedness between two districts after numerous changes as to the vesting of the title of property situated in the territory annexed, would indicate that the intent of the legislature was not to provide for a division of indebtedness or funds other than as indicated by their last act, unless provision is made in some other section for such apportionment."

I find no statutory authority for making a division of indebtedness other than indebtedness on school property. It is therefore my opinion that the City of Lancaster School District is not liable for any portion of the said bonded indebtedness.

Respectfully,

EDWARD C. TURNER,
Attorney General.

757

OHIO BOARD OF CLEMENCY—CONCERNING THEIR AUTHORITY TO PAROLE FEMALES WHO HAVE BEEN CONVICTED OF MURDER IN THE SECOND DEGREE AND SENTENCED TO IMPRISONMENT IN THE OHIO REFORMATORY FOR WOMEN.

SYLLABUS:

The Ohio Board of Clemency has authority to establish rules and regulations under which females convicted of murder in the second degree and sentenced to imprisonment in the Ohio Reformatory for Women may be allowed to go upon parole in legal custody, the only limitations upon the board's power being that such prisoners must have been recommended as worthy of such consideration by the superintendent of the reformatory before they shall be considered by the board and must have served within the reformatory five years imprisonment.

COLUMBUS, OHIO, July 21, 1927.

Ohio Board of Clemency, Columbus, Ohio.

GENTLEMEN:—This will acknowledge receipt of your letter of recent date which reads as follows:

"Two prisoners in the Ohio Reformatory for Women, Marysville, Ohio, have been recommended for a hearing for parole by the Superintendent of the Reformatory, both convicted of murder in the second degree, and given a life sentence, but neither of them has served the full term of ten years as required in the case of males in Section 2169. These recommendations have been made under a provision in Section 2148-10, reading as follows:

'That no femal sentenced to imprisonment for life shall be eligible to parole within five years from admission.'

Question—Has the Board of Clemency the power to parole a prisoner sentenced for life for murder in the second degree under that section before the