

a state has power to release or remit particular taxes, at least on compliance with certain conditions, unless the legislature is prohibited from authorizing compromises because of provisions in the state constitution."

Under the provisions of the statutes herein quoted, it is clear that there is no authority granted to the county treasurer to do otherwise than to collect the taxes in full with penalty thereon and no authority is granted to compromise or settle any claim for taxes.

In an opinion of this department found in Opinions of the Attorney General for 1922, Vol. I, page 230, my predecessor was asked whether a county treasurer was authorized to accept from the receiver of an insolvent corporation, the property of which was heavily encumbered by mortgage, an offer to pay the present sums of taxes without the penalty that had accrued on account of the non-payment of tax within the time fixed by law. In answering said question it was stated in the opinion that :

"No specific statutory authority has been found for such procedure. In fact, no county officer is authorized to compromise a claim for general property taxes. *Peters vs. Parkinson*, 83 O. S. 36, decides that the commissioners may not do this after suit brought by the county treasurer to enforce collection, but there is some reasoning in the case which goes beyond the actual decision therein. For example, it is remarked on page 49 that :

'Another, and perhaps sufficient reason why the county commissioners could not rightfully settle or remit the taxes sued for in this case is that such taxes were not wholly due to, nor were they wholly levied for, the use of Holmes county, but there was included therein as well, state, township, municipal, and other taxes.'

Specifically answering your question, it is my opinion that the county treasurer is without authority to compromise and settle claims for delinquent taxes for less than the amount due with penalty thereon.

Respectfully,
EDWARD C. TURNER,
Attorney General.

2843.

AIRPORT—ON LAND OF COUNTY HOME FARM—COUNTY AND CITY
MAY NOT JOIN IN AGREEMENT TO EQUIP AND MAINTAIN.

SYLLABUS:

A county and a city may not legally enter into a joint ownership agreement with respect to that portion of a county home farm, not needed for public use, for the purpose of equipping and maintaining an airport.

COLUMBUS, OHIO, November 7, 1928.

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

GENTLEMEN:—I am in receipt of your recent communication which reads as follows:

"A county owns a 360 acre farm, upon which the County Home is located. About 200 acres of said farm is not used for any particular purpose, and could be used as an airport. A city located near-by in the same county is desirous of equipping such acreage as an airport, if the county and the city may legally enter into a joint ownership agreement.

Your views in connection with this matter will be very much appreciated."

Under date of October 3, 1927, Opinion No. 1101, reported in Opinions of the Attorney General, 1927, Vol. III, page 1946, was rendered to your bureau, the syllabus of which is as follows:

"A board of county commissioners, not being authorized by statute so to do, may not lawfully purchase land to be used as an airport and may not issue bonds for such purpose."

As recited in that opinion, it is well settled that a board of county commissioners, being purely a creature of statute, has only such powers as are expressly conferred upon it by statute and such implied powers as are necessary to carry into effect the powers expressly granted.

In this connection I deem it significant that the 87th General Assembly of Ohio, as a part of Section 3939, General Code, granted to municipal corporations the specific authority:

"(22) To purchase or condemn land necessary for landing fields, either within or without the limits of a municipality, aircraft and transportation terminals and uses associated therewith or incident thereto, and the right of way for connections with highways, electric, steam and interurban railroads, and to improve and equip the same with structures necessary or appropriate for such purposes." (112 v. 380).

In view of the foregoing, I am of the opinion that the county clearly has no power to equip and maintain an airport. Even if such authority had been granted to county commissioners by a statute similar to that portion of Section 3939, General Code, above quoted, applying to municipalities, I do not believe the county would have the power, by virtue of such a grant, to enter into a joint ownership agreement with a municipality for the equipping and maintaining of such an airport.

In an opinion of the Attorney General, being No. 1641, dated November 5, 1920, reported in Opinions, Attorney General, 1920, Vol. II, page 1065, it was held that the statutes of Ohio did not authorize the purchase of fire apparatus by the township trustees and the council of a village within a township. This was held to be true even though the trustees, by Section 3298-54, were granted specific authority to purchase such fire apparatus for their own use. We find the following discussion in that opinion which is pertinent here:

"H. B. 332, above referred to, makes no provision for joint action by a township and a village in the matter of the purchase of fire apparatus, and I am unable to find any statutory provision whatever for such joint action. It does not, of course, follow that whatever can be done by public boards or officers singly, can as a matter of law be done by them in conjunction with each other. That such an arrangement might in many cases conduce to convenience and economy of public funds may be conceded, but these considerations do not, of course, atone for the lack of statutory authority."

This reasoning is further supported by the fact that the Legislature has made specific provision for cases in which it determined joint ownership of property by political subdivisions to be desirable, as in the case of Section 3399, General Code, authorizing the joint ownership of a town hall by township trustees and a municipality located within the township.

Section 2447, General Code, contains the general authority to county commissioners to sell real estate not needed for public use and the power of the county to lease such property has also been recognized. A discussion of such power to lease appears in Opinions of the Attorney General for 1924 at page 110. However, neither of these powers can be so extended as to include the power of entering into a joint ownership agreement for a use of property proposed to be jointly owned for a purpose not authorized by statute.

It is my opinion, therefore, that a county and a city may not legally enter into a joint ownership agreement with respect to that portion of a county home farm, not needed for public use, for the purpose of equipping and maintaining an airport.

Respectfully,

EDWARD C. TURNER,
Attorney General.

2844.

COUNTY COMMISSIONERS—AUTHORITY TO PURCHASE MATERIAL
FOR GENERAL USE IN CONSTRUCTION AND MAINTENANCE OF
COUNTY ROADS.

SYLLABUS:

County commissioners have legal authority under existing law to purchase material for general use in connection with the construction of highways within their jurisdiction, as well as to make such purchases for the improvement, maintenance and repair of such highways.

COLUMBUS, OHIO, November 8, 1928.

HON. F. E. CHERRINGTON, *Prosecuting Attorney, Gallipolis, Ohio.*

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

“Will you please give me your opinion on the following proposition:

Has the Board of County Commissioners the general power to purchase material, such as stone or gravel, for the purpose of using the same for the building and construction of county roads *in general*, as distinguished from the power to purchase such material, in the manner provided by law for a designated or specific improvement, and as distinguished from the power to purchase such material for the repair and maintenance of county roads?

Stating the question in another way:

Has the Board of County Commissioners, for example, the power to purchase ten thousand tons of gravel to be used in building county roads in general, without reference to the construction of any particular or designated highway or improvement?