1009.

TOWNSHIP—NOT INCLUDED WITHIN DEFINITION OF SUBDIVISION AS CONTAINED IN SECTION 2 OF HOUSE BILL NO. 94 ENACTED BY THE 90TH GENERAL ASSEMBLY—LIQUIDATED CLAIMS AGAINST TOWNSHIP MAY NOT BE RECEIVED BY COUNTY TREASURER IN PAYMENT FOR TAXES ASSESSED AGAINST TAXPAYER.

*SYLLABUS:*

*A township is not included within the definition of "subdivision," as contained in section 2 of House Bill No. 94, enacted by the 90th General Assembly, and for such reason liquidated claims against a township may not be tendered to and received by the county treasurer in payment for taxes assessed against the taxpayer.*

COLUMBUS, OHIO, July 1, 1933.

HON. CALVIN CRAWFORD, *Prosecuting Attorney, Dayton, Ohio.*

DEAR SIR:—I am in receipt of your recent request for opinion which reads as follows:

> "On March 30, 1933, the General Assembly of the State of Ohio passed House Bill No. 94. The bill was approved by the governor April 14, 1933, and thereupon became an act. For purposes recited in the act it was deemed an emergency measure effective upon its approval by the governor.
>
> By Section I of the bill it is provided that a taxpayer may use, in the payment of his taxes, any liquidated claim that such taxpayer has against any subdivision which is to derive benefit from tax collection.
>
> Section 2 defines the word 'subdivision' and states that it shall mean 'any county, school district, except county school district, or municipal corporation in the state and the term "municipal corporation" shall include charter municipalities.'
>
> The act in other sections sets forth the method and manner in which liquidated claims (which are also defined) may be used to accomplish the purpose set forth in Section 1. Nowhere in the act is the term 'township' used. It may be probable that the legislature meant to include township in the broader term 'county.'
>
> Because of the phrasing of said act as above indicated, there is some confusion locally and also a misunderstanding as to whether or not it was intended that the act include 'township' in the broader term 'county.' Therefore, to clear up this confusion, we respectfully solicit your opinion as to whether or not in said act the term 'county' does include 'township.'"

House Bill No. 94, enacted by the 90th General Assembly, referred to in your inquiry, defines the word "subdivision" for the purposes of that act:

> "'Subdivision' shall mean any county, school district, except the county school district, or municipal corporation in the state, and the term 'municipal corporation' shall include charter municipalities." * * *

Your problem undoubtedly arises by reason of the fact that in certain other special acts which form a part of the General Code, the legislature has seen fit to define the word "subdivision" for the purposes of the particular act in different language than that contained in section 2 of House Bill No. 94. Thus, in the Uniform Bond act the term "subdivision" is defined for the purposes of such act as:

> "'Subdivision' shall mean any county, school district, except a county school district, municipal corporation *or* township in the state." (2293-1, G. C.) (Italics the writer's.)

In the Uniform Tax Levy Law, which is sometimes referred to as the "Budget Act," the identical definition is adopted by the legislature for the purposes of such act for the word "subdivision." (Section 5625-1, G. C.)

The clause to which you refer in section 2 is an "interpretation clause" of the act. (Black on Interpretation of Laws, section 84.) On pages 191 and 192, such author uses the following language:

> "An 'interpretation clause' is a section sometimes incorporated in a statute, prescribing rules for its construction, or defining the meaning to be attached to certain words and phrases frequently occurring in the other parts of the act. When a statute contains such a clause, the courts are bound to adopt the construction which it prescribes, and to understand the words in the sense in which they are therein defined, although otherwise the language might have been held to mean something different. A definition incorporated in a statute is as much a part of the act as any other portion. It is imperative. 'The right of the legislature to prescribe the legal definitions of its own language must be conceded.' 'The right of the legislature enacting a law to say in the body of the act what the language used shall, as there used, mean, and what shall be the legal effect and operation of the law, is undoubted.'" * * *

*Smith* vs. *State,* 28 Ind. 321; *Jones* vs. *Surprise,* 64 N. H. 243, 9 Atl. 384; *Herold* vs. *State,* 21 Neb. 50, 31 N. W. 258. It would thus appear that while the legislature in such act has used a common word such as "subdivision," it would have the right by enacting a definition to limit the ordinary meaning of such word "subdivision" in such manner as it saw fit for the purposes of such act.

The rule of expressio unius exclusio alterius is that the express mention of one person, thing or consequence is tantamount to an express exclusion of all others. The application of such rule to the definition contained in such House Bill No. 94, for the term "subdivision," would exclude the term "township" from the provisions of such act.

The cardinal rule of all interpretation of statutes is that the intention of the legislature as expressed in the act shall be placed upon such act. In arriving at this intention the courts must derive such intention from the language used by the legislature and ignore all outside considerations, unless there is an ambiguity in the language of the statute. See *Swetland* vs. *Miles,* 101 O. S. 501; *Smith* vs. *Bock,* 119 O. S. 101; *Slingluff* vs. *Weaver,* 66 O. S. 621; *Village of Elmwood Place* vs. *Shangle,* 91 O. S. 354.

There is another rule of statutory construction; that, when a statute makes specific provisions in regard to several enumerated cases or objects, but omits to

make any provision for a case or object which is analogous to those enumerated, or stands upon the same reason and is therefore within the general scope of the statute and, even though it may appear that such case was overlooked by the legislature or omitted by reason of inadvertence, such defect or omission cannot be supplied by the courts. See *Black on Interpretation of Law,* section 31; *Weirich* vs. *Lumber Company,* 96 O. S. 396; *Cincinnati* vs. *Roettinger,* 105 O. S. 145. This rule of interpretation is usually referred to as "casus omissus."

While there might appear to be as much reason for including "township" within the definition of subdivision as there would be to include a school district, yet when the legislature has specifically defined the term "subdivision" in language other than that which it has used in defining "subdivision" in other acts, as for instance, the Uniform Bond Act or the Budget Act, I am unable to hold that the legislature intended to include "township" within the meaning of "subdivision" for the purposes of House Bill No. 94, as enacted by the 90th General Assembly.

Specifically answering your inquiry, it is my opinion that a township is not included within the definition of "subdivision," as contained in section 2 of House Bill No. 94, enacted by the 90th General Assembly, and for such reason liquidated claims against a township may not be tendered to and received by the county treasurer in payment for taxes assessed against the taxpayer.

Respectfully,
JOHN W. BRICKER,
*Attorney General.*

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1010.

COUNTY—UNDER SECTION 7314-1, GENERAL CODE, NOT LIABLE IN DAMAGES FOR NEGLIGENT OPERATION OF COUNTY-OWNED MOTOR VEHICLES.

*SYLLABUS:*

*Section* 3714-1, *General Code, enacted by the* 90th *General Assembly, does not render a county liable in damages for the negligent operation of county owned motor vehicles.*

COLUMBUS, OHIO, July 1, 1933.

HON. RAY W. DAVIS, *Prosecuting Attorney, Circleville, Ohio.*

DEAR SIR:—This will acknowledge receipt of your request for my opinion which reads in part as follows:

> "Does Section 3714-1 of the General Code of Ohio, which makes Municipal Corporations liable as private Corporations, for damages incurred by vehicles operated by them, extend also to county automobiles operated by officials and officers of the county?"

It is well settled that a county is not liable in tort in the absence of an express statute creating such liability.

In Opinions of the Attorney General for 1927, Vol. II, page 814, it was held as disclosed by the syllabus: