

authority to levy assessments for street improvements against property within such corporation belonging to a board of education and being used for school purposes, and no provision exists in the General Code of Ohio exempting such property from that general authority.

2. In the event of failure of such board of education to pay an assessment so levied, an action may be brought by the municipal corporation against such board of education to recover the amount of such assessment."

It is believed that, by analogy, the opinion last above quoted is applicable in connection with your inquiry. The only difficulty that arises, it is believed, is the holding of the Supreme Court in the case of *State ex rel. v. Cooper*, 123 O. S., 23 (Ohio Bar Rep., January 6, 1931), in which it was held as disclosed by the syllabus:

"1. The duty enjoined upon county treasurers by Section 3892, General Code, to collect installments of special assessments upon real estate in the same manner and at the same time as other taxes are collected, is mandatory.

2. Special assessments upon real estate for public improvements are taxes within the meaning of Sections 2655 and 3892, General Code.

3. By virtue of Section 2655, General Code, county treasurers are not permitted to receive payments of general taxes without at the same time receiving payment of installments of special assessments for public improvements certified to the county treasurer for collection."

Briefly, the above case held that the term "taxes", as used in Section 2655 of the General Code, included "assessments." However, it must be kept in mind that in the Cooper case, supra, the court was considering a different set of statutes from those under consideration in the Jackson case, supra.

It is therefore believed that in view of the specific holding in the Jackson case, it may not be said that the term "taxes" and "taxation" as used in tax exemption sections includes assessments.

In specific answer to the question propounded, it is my opinion that under the provisions of Section 3812 of the General Code, the village of Oxford has authority to levy and collect assessments for public improvements mentioned in said section, upon lands situated within such village, which are owned by Miami University.

Respectfully,

GILBERT BETTMAN,
Attorney General.

3126.

CITY BOARD OF EDUCATION—BECOMING VILLAGE BOARD ON ACCOUNT OF FEDERAL CENSUS—COMPLETE NEW BOARD OF FIVE MEMBERS ELECTED AT NEXT PROPER ELECTION, EVEN THOUGH TERMS OF SOME CITY BOARD MEMBERS NOT EXPIRED.

SYLLABUS:

When, by reason of the last preceding federal census, a city is reduced to a village, the members of the board of education heretofore elected as members of the city board of education should continue in office until succeeded by the members of a board of education of the new village school district, all five of whom should be elected at the next succeeding annual election

for school board members regardless of the terms of office of any present members of the board heretofore elected as members of the city board of education.

COLUMBUS, OHIO, April 7, 1931.

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

GENTLEMEN:—Your letter of recent date is as follows:

"We are enclosing herewith letter from Mr. G. W. M., Clerk of the Board of Education of D. City School District, containing several questions relative to the membership of their board of education, arising as a result of the changing of the school district from a city district to a village district, and respectfully request you to render this department your opinion upon the question asked."

Attached to your communication is the following letter:

"You have already instructed our city solicitor relative to expiration of municipal offices, etc., due to our city going back into the village class, effective December 31st, 1930, due to insufficient population to be considered in the city class.

Will you kindly advise me what effect this will have on the D. City School District, that is,—will it be necessary to elect an entire board (five members) at the November 1931 election, or just elect members to fill the vacancies caused by the expiration of terms of office of two members, which will be December 31st, 1931?

The other three members' terms would not expire until December 31st, 1933. Will you kindly advise if it will be necessary to elect an entire new board of five members, or just the two whose terms expire as stated above?"

Section 4686, General Code, provides as follows:

"When a village is advanced to a city, the village school district shall thereby become a city school district. When a city is reduced to a village, the city school district shall thereby become a village school district. The members of the board of education in village school districts that are advanced to city school districts, and in city school districts that are reduced to village school districts shall continue in office until succeeded by the members of the board of education of the new district, who shall be elected at the next succeeding annual election for school board members."

This section expressly provides that when a city school district is reduced to a village school district, the members of the board of education shall continue in office until succeeded by the members of the board of education of the new village school district, who shall be elected at the next succeeding annual election for school board members. There is no qualification therein limiting the number of the members of the board of education to be elected at the next succeeding annual election for school board members, and accordingly the legislative intent is obvious that under such circumstances an entire board of five members should be elected at such next election.

It is true that contrary provisions are contained in the chapter of the General Code relating to city school districts when a change in the population of a city results in the change of the classification therein contained of such city school districts. Section 4686, *supra*, is, however, in my opinion, dispositive of your inquiry, since it contains

express provision for the election of members of a village school district which heretofore has been a city school district.

Specifically answering your question, therefore, it is my opinion that when, by reason of the last preceding federal census a city is reduced to a village, the members of the board of education heretofore elected as members of the city board of education should continue in office until succeeded by the members of a board of education of the new village school district, all five of whom should be elected at the next succeeding annual election for school board members regardless of the terms of office of any present members of the board heretofore elected as members of the city board of education.

Respectfully,

GILBERT BETTMAN,
Attorney General.

3127.

APPROVAL ABSTRACT OF TITLE TO LAND OF LUCILLE E. STRAUB IN
THE CITY OF COLUMBUS, FRANKLIN COUNTY, OHIO.

COLUMBUS, OHIO, April 7, 1931.

HON. CARL E. STEEB, *Business Manager, Ohio State University, Columbus, Ohio.*

DEAR SIR:—There has been submitted for my examination and approval an abstract of title of lots Nos. 35 and 36 of Critchfield and Warden's Subdivision of the south half of lot No. 278 of R. P. Woodruff's Agricultural College Addition, to the city of Columbus, Ohio, as the same are numbered and delineated upon the recorded plat thereof, of record in Plat Book 4, page 234, Recorder's Office, Franklin County, Ohio.

Upon examination of said abstract of title, I am of the opinion that Lucille E. Straub, the owner of record of the above described real property, has a good and indefeasible fee simple title to the same, subject to the dower interest therein of her husband, Frank J. Straub, and free and clear of all incumbrances except the taxes on said property for the year 1930, amounting to the sum of four dollars and ninety-four cents, which taxes are unpaid and a lien upon the property.

With the abstract of title above referred to, there has been submitted to me a deed form of a warranty deed to be executed by said Lucille E. Straub and Frank J. Straub, her husband, conveying the above described property to the state of Ohio. From an examination of said deed form, I am of the opinion that when the same has been executed and acknowledged by said Lucille E. Straub and Frank J. Straub in the manner required by law, said deed will be effective to convey said property to the state of Ohio, free and clear of the dower interest of said Frank J. Straub and free and clear of all incumbrances, except taxes and assessments on said property due and payable on and after December, 1930:

Encumbrance record No. 2080, which has been submitted as a part of the files relating to the purchase of the above described real property, has been properly executed and approved and the same shows that there is a sufficient balance in the appropriation account to pay the purchase price of said property, which purchase price is the sum of one thousand and fifty dollars. Said encumbrance record, by appropriate recital therein, shows that the purchase of the above described property has been approved by the controlling board and that the purchase price, in the amount above indicated, has been released by the controlling board for said purpose.

I am herewith returning to you, with my approval, said abstract of title, warranty deed form and encumbrance record No. 2080.

Respectfully,

GILBERT BETTMAN,
Attorney General.