

This is true except when the boundaries of the municipality become identical with those of a township. (Section 3512, General Code.)

That statutes exist which exempt the property in a municipality from a township tax is shown by an examination of Section 4179, General Code, which provides for the exemption of the property of a village which has established and maintains a cemetery, from a township tax for cemetery purposes.

It is to be noted that a specific exemption is made of the property located in a village situate in a township from a tax levy made by a township for the improvement, dragging, etc. of highways. Section 3298-18, General Code, provides in part as follows:

"After the annual estimate for each township has been filed with the trustees of the township by the county surveyor they may increase or reduce the amount of any of the items contained in said estimate and at their first meeting after said estimate is filed they shall make their levies for the purposes set forth in the estimate and for the purpose of creating a fund for dragging, maintenance and repair of roads, *upon all the taxable property of the township outside of any incorporated village or city*, or part thereof therein situated, not exceeding in the aggregate two mills in any one year upon each dollar of the valuation of such taxable property. * *"

(*Italics* the writer's.)

On the other hand there are statutes which provide for a tax upon all the township property, such as Sections 3404 and 6927 of the General Code. These sections read in part as follows:

3404. "* * * If a majority of the electors voting at such election vote in favor thereof, the trustees may, annually, levy upon all the taxable property of such township a tax not exceeding one mill on the dollar valuation thereof, to be applied to the establishment and maintenance of a library, and the procuring of suitable room or rooms therefor."

6927. "For the purpose of providing by taxation a fund for the payment of the proportion of the compensation, damages, costs and expenses of such improvement to be paid by the township or townships interested, in which such road may be in whole or in part situated, the county commissioners are hereby authorized to levy a tax not exceeding three mills in any one year upon all the taxable property of such township or townships. * * *"

I believe Section 7201, here under discussion, to be of the latter class.

In view of no exception being made in Section 7201, General Code, for property located in a municipality from a tax levied under the provisions of that section, it is my opinion that when a truck is purchased according to the provisions of said section, and notes are issued in payment thereof, a tax must be levied on all the taxable property located within an incorporated territory situate in the township for the payment of such notes and interest.

Respectfully,
GILBERT BETTMAN,
Attorney General.

2899.

TEAR GAS PROTECTIVE EQUIPMENT—RIGHT OF COUNTY COMMISSIONERS TO PURCHASE SUCH EQUIPMENT FROM COUNTY FUNDS AND INSTALL IT IN COUNTY TREASURER'S OFFICE.

SYLLABUS:

1. *Tear gas protective equipment in a county treasurer's office for the purpose of protection against robberies and hold-ups is a means of security within said office similar to burglar-proof vaults and safes and is properly included within the terms of Section 2419, General Code, authorizing the county commissioners to furnish "other means of security in the county treasury."*

2. *County commissioners may lawfully provide tear gas protective equipment in the office of a county treasurer and pay for the same from county funds.*

COLUMBUS, OHIO, February 2, 1931.

HON. RAY T. MILLER, *Prosecuting Attorney, Cleveland, Ohio.*

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

"At the instance of the County Treasurer of Cuyahoga County, Ohio, I am requesting your opinion upon the following legal question:

May a County Treasurer in Ohio purchase tear gas protective equipment to be installed in the Treasurer's office, for the purpose of protection against robberies and holdups. For the purpose of your opinion, it may be assumed that this equipment will be of value in safe-guarding the lives of public employees, as well as for the protection of public funds."

Until the enactment of Section 2638-1, General Code, it had been the consistent holding of this office that, inasmuch as county treasurers were, by reason of the bond which they are by law required to give, insurers of public money coming into their custody, there is no justification or authority at common law for the expenditure of public funds to pay premiums for burglary, robbery or holdup insurance to insure the county against possible losses of those funds, while in the custody of the county treasurer, on account of burglary or robbery. See Opinions of the Attorney General for 1927, pages 527 and 916, for 1928, page 2160, and authorities there cited. I believe the doctrine of those opinions is sound, and it was applied in my opinion No. 279, published in the Opinions of the Attorney General for 1929, at page 413, where it is held that in the absence of statutory authority therefor, the payment from county funds for insurance to protect funds in the custody of the Judge of the Court of Insolvency for Cuyahoga County, against robbery or burglary, is unlawful.

Even though a county treasurer is an insurer of public moneys in his custody, as was held in the case of *State v. Harper et al*, 6 O. S., 608, which case was cited with approval in *Loester v. Alexander*, 176 Fed., 270, and for that reason, there can be no justification for the expenditure of public funds, in the absence of statute, for the protection of the private responsibility of the treasurer with respect to those funds, no question has ever been raised with respect to the power of the legislature to authorize the expenditure of public funds to more efficiently secure the revenues belonging to the county as for instance, by the enactment of Section 2638-1, General Code. See Opinions of the Attorney General for 1929, page 1395.

By force of Section 2419, General Code, county commissioners are authorized to "provide all room, fire and burglar-proof vaults and safes and other means of security in the office of the county treasurer, necessary for the protection of public moneys and property therein."

This statute was under consideration by a former attorney general, and it was held by him as stated in the syllabus of an opinion reported in Opinions of the Attorney General for 1927, at page 916, as follows:

"In the construction of Section 2419, General Code, the words 'other means of security in the county treasury' should be construed as meaning

means of physical security of like nature to the security provided for by the authorization to furnish room, fireproof and burglar-proof vaults and safes and cannot be extended to mean authorization for the county commissioners to purchase and pay for from county funds burglary or hold-up insurance or insurance against forgery for the protection of the county treasurer."

In the course of the opinion it was stated:

"The expression 'other means of security' used as it is in conjunction with other descriptive words clearly implies that these other means of security shall be such other physical means as the words fire and burglar-proof vaults and safes import. It is a familiar rule of construction of statutes that when two or more words are grouped together and have ordinarily a similar meaning but are not equally comprehensive they will qualify each other when associated. The principle involved is expressed in the maxim *noscitur a sociis* and is applicable to the construction of all written instruments, as well as to the construction of statutes. Words or expressions used in a series, as we find them in this statute, must be construed according to the context and as limitations upon each other."

Tear gas protective equipment is in my opinion physical security within the office of the county treasurer similar to fire-proof and burglar-proof vaults and safes and is properly included within the term "other means of security in the county treasury," and I am therefore of the opinion that county commissioners may properly provide tear gas protective equipment in the county treasury for the purpose of protection against robbery and hold-ups and pay for the same from county funds.

Respectfully,

GILBERT BETTMAN.

Attorney General.

2900.

COUNTY ROAD—MADE PART OF STATE HIGHWAY BUT LATER ABANDONED—DUTY OF COUNTY COMMISSIONERS TO MAINTAIN SUCH ABANDONED ROAD.

SYLLABUS:

It is the duty of the county commissioners to maintain any part of a road within the county which, while a part of the county system, was made part of the state highway system and thereafter abandoned as a state highway under the provisions of Section 1189, General Code, whereupon it reverted to its former status as a part of the county system of highways, which, in the first instance, it is the duty of the county to maintain.

COLUMBUS, OHIO, February 2, 1931.

HON. DANIEL P. BINNING, *Prosecuting Attorney, Coshocton, Ohio.*

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

"I would like to have your opinion upon the following statement of facts: