the members elected to that body. It is obvious that House Bill No. 36 does not contain this defect which the Court of Appeals held to render House Bill 703 violative of the Constitution.

Your remaining inquiry is as to the sufficiency of the emergency clause set forth in Section 5 of the act, supra. It is unnecessary to consider or pass upon the question of whether or not there was in fact a necessity for making House Bill 36 an amergency measure. The act is expressly declared to be an emergency measure by the legislature in section 5, supra. The case of *State, ex rel. Durbin* vs. *Smith,* 102 O. S. 591, in a per curiam opinion in which four of the judges of the Supreme Court concurred, established the law of this state that when the legislature had added an emergency clause to a law and adopted it in the manner prescribed by the Constitution, the courts cannot review the necessity for making such law an emergency measure. Three of the judges vigorously dissented in separate dissenting opinions. The court has, however, since adhered to the principles laid down by the majority opinion in this case and has applied these principles to questions affecting emergency clauses of municipal ordinances. In the recent case of *Holcomb, Auditor* vs. *State, ex rel.,* 123 O. S. 496, the third branch of the syllabus is as follows:

> "The duty and responsibility of determining the emergency and the necessity that a measure go into immediate effect are confided to the legislative branch of government. If the prescribed procedure for enactment thereof is followed, such measure goes into effect immediately upon its passage."

It follows in view of the foregoing discussion and citations that since the emergency clause as contained in Section 5 of the act here under consideration has been adopted in the manner prescribed by the Constitution, the act went into effect when signed by the Governor and the question of whether or not there was a necessity for making such law an emergency is not subject to judicial review.

Respectfully,
JOHN W. BRICKER,
Attorney General.

2310.

TOWNSHIP TRUSTEES—UNAUTHORIZED TO ENTER INTO DEPOSITORY CONTRACT PROVIDING FOR LESSER RATE OF INTEREST IN EVENT LEGISLATURE REDUCES MINIMUM RATE ON SUCH DEPOSITS.

SYLLABUS:

A board of township trustees has no legal authority under the provisions of Section 3320 *to Section* 3326, *General Code, to enter into a contract for a township depository which provides that the depository shall pay* 2% *interest per annum on the average daily balance of township deposits but containing a proviso that such contract shall become void if the legislature shall amend the statute in such*

manner as to authorize the acceptance of a bid for a depository at a lesser rate of interest, or in the event of such change by the legislature requiring the payment of a lesser rate by the depository after the effective date of such amendment.

COLUMBUS, OHIO, February 23, 1934.

HON. PAUL FLYNN, *Prosecuting Attorney, Tiffin, Ohio.*

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

> "Various boards of township trustees in this county are about to seek bids for the deposit of township funds. These boards are having difficulty in interesting banks in the county in receiving such funds, for the reason that the banks feel they can not pay the minimum rate of 2% interest. However, the banks are willing to offer to pay 2% upon the deposits until the depository law is changed by the legislature. In other words, the banks want to enter a bid to the effect that if the minimum rate now provided by law is reduced by legislative enactment they want to be able to take advantage of it.
>
> Will you please let me know whether or not in your opinion it would be legal for a board of township trustees to accept a bid wherein it is provided that 2% or more will be paid upon the deposit until the law should be changed, at which time either a new contract will be made or a minimum rate provided for in the bid such as for instance, one-half of 1% will then be paid to the board by the bank, prior to the expiration of the minimum term of one year, for which such a contract must be made.
>
> I have been requested to ask your early opinion upon this question for the reason that present contracts are expiring and new bids are about to be received."

It should be remembered that township trustees are public officers and as such have such powers and such only, as are granted them by statute. *Schwing* vs. *McClure et al.,* 120 O. S. 335; *State ex rel.* vs. *Pierce,* 96 O. S. 44; *Ireton* vs. *State ex rel. Hunt,* 12 O. C. C. (N. S.) 202; *Peter* vs. *Parkinson,* 83 O. S. 36.

It has also been held, as stated in the syllabus of *Frisbee Co.* vs. *City of East Cleveland,* 98 D. S. 266, that:

> "When a statute prescribes the mode of exercise of the power therein conferred upon a municipal body, the mode specified is likewise the measure of the power granted, and a contract made in disregard of the express requirements of such statute is not binding or obligatory upon the municipality."

Section 3320, General Code, provides that on the even numbered calendar years the board of township trustees shall, within thirty days after the first Monday in January, create a township depository. It might be argued that this section required the creation of a depositary for a period of two years. The next succeeding section, however, provides that "no contract for the deposit of township funds shall be for a longer period than two years." There is this specific language to the effect that the depository contract shall be for not longer than two years, yet there is no such specific language that the contract shall be for a lesser period than two years. If it were not for the provisions of

Section 3321, General Code, it would appear that there is at least an implied requirement that the depository agreement should be for a two year period, no more and no less. The statute in terms requires the creation of a depository each second year. However, if such were to be considered the correct interpretation of Section 3320, General Code, what could have been the purpose of the legislature in inserting the language above referred to in Section 3321, General Code?

In the first paragraph of the syllabus of *State ex rel. Spira* vs. *Board of County Commissioners,* 32 O. App., 382, it is stated:

> "Purpose of construction of statute is to ascertain and give effect to legislative intent, and in doing so court should seek intent, in language employed in statute, giving full effect to every word used."

Since there is a duty to give effect to all the language of the act, and since if the provisions of Section 3320, General Code, were to be construed as requiring the board of township trustees to create a depository every second year for a definite period of two years, such construction would render the provision of Section 3321, General Code, above quoted, redundant. What meaning can be placed on such provision of Section 3321, General Code? As stated by Scott, J., in *Medical College* vs. *Ziegler,* 17 O. S. 52, 68:

> "The rules of construction favor an interpretation which will give effect to every part of the enactment."

And by Spear, J., in *State* vs. *Rouch,* 47 O. S. 485:

> "In giving construction to a statute all its provisions must be considered together. We must get at the legislative intent—a consideration of all that has been said in the law, and not content ourselves with partial views, by isolated passages, and holding them alone up to criticism. What is the whole scheme of the law? What object did the legislature intend to accomplish?"
> (Quoted and applied in *Powell* vs. *State ex rel. Fowler,* 84 O. S. 165, 175.)

Upon examination of such Sections 8320 and 8321, General Code, together, it would appear that the legislature itself, did not consider that it had, by the enactment of Section 3320, General Code, required the creation of a depository for a specified period of two years, or it would not have considered that it was necessary in the next succeeding section to provide that the contract should be for not more than two years. If section 3320, General Code, standing alone, is not to be construed as requiring the creation of a depository for a period of two years, no more and no less, it could not be construed as requiring a contract for any definite period. I am inclined to the view that Section 3320, General Code, does not require the creation of a depository for any definite period, yet, by reason of the provisions of Section 3321, General Code, such contract must be for two years or less; that within thirty days after the first Monday of January on the even numbered years, the legislature directs that a depository for township funds be created, if it be possible; that the time designated in such statute is for the orderly and systematic procedure of creating depositories and is therefore directory rather than mandatory. In re. Chagrin Falls, 91 O. S. 308; Black on Interpretation of Laws, Section 127.

There is a further provision in Section 3321, General Code, which would tend to indicate the legislative intent in the enactment of Section 3320, General Code, was not to limit the length of the depositary contract to two years, no more and no less. That is, such section requires that the township trustees shall by resolution determine the length of "time for which such deposits shall be made". If the legislature had, in Section 3320, General Code, determined the length of time for which such deposits should be made, it would be an inane gesture to require the board of trustees to determine that which had already been determined by the legislature and which could not be altered by any action of such board of township trustees.

If such is not the intent of the legislature, then the provisions contained in Sections 3320 and 3321, General Code, are a nullity and no provision would be provided by law for the creation of a township depository in the event that the bank is no longer able to function as a designated depository. In other words, in the event that a depository bank for any reason closed its doors to general business no depository could be created until the time came for the designation of a depository unless such provisions be so construed.

It is a fundamental rule of statutory interpretation that every statute must be construed in the light of its purpose as expressed in the statute. *Cleveland Trust Co.* vs. *Hickox,* 32 O. App., 69; *Cochrel* vs. *Robinson,* 113 O. S. 526; *Rodebaugh, Exr.* vs. *U. S. Fed.* (2d) 13.

The purpose of the township depository laws, appears to be to require the deposit of township funds in a bank depository if one may be found which will pay not less than 2% on the average daily balance and which can give adequate security for the safekeeping and return of the township funds deposited therein.

By reason of such purpose, I am of the opinion that the township trustees may enter into a depository contract for a period of less than two years.

Coming now to the second part of your inquiry as to whether a contract might be entered into by the township trustees by virtue of which the township depository bank would agree to pay interest on the average daily balance of 2% per annum, with a proviso that in the event that the legislature should amend Sections 3322, 3323 and 3326, General Code, in such manner as to authorize the entering into of a township depository contract at a lesser minimum rate, then after the effective date, a lesser rate of interest shall be paid, or a new depository contract shall be entered into whereby the specific interest would be reduced.

It is difficult to perceive, in view of the requirements of Sections 3321, 3323 and 3325, General Code, which authorize the board of township trustees to advertise for competitive bids for township depository funds at a rate of not less than 2% per annum on the average daily balance, how a contract could be entered into which would authorize the depository bank to pay a lesser rate on such deposits, in the event that such depository bank could induce the legislature to lower the minimum rate of interest on such deposits. There are two plausible arguments why such contract would be void, at least in part:

1. There is at this time no authority of law for the making of such contract. It is beyond the power of the board of township trustees to enter into an agreement with a depository at a lesser rate than 2% per annum on the average daily balance of deposits therein.

2. Such contract might probably be contrary to public policy, if it required the bank to use its influence to secure the enactment of the amendment and thus tend to decrease the interest to the township on its deposits, and therefore illegal.

Without rendering any opnion concerning the validity of the second of such arguments, I am unable to find any statutory authority for such contract, and if no such authority exists the contract would be beyond the powers of the board of township trustees and void to the extent it was so ultra vires.

Specifically answering your inquiry it is my opinion that a board of township trustees has no legal authority under the provisions of Section 3320 to Section 3326, General Code, to enter into a contract for a township depository which provides that the depository shall pay 2% interest per annum on the average daily balance of township deposits but contains a proviso that such contract shall become void if the legislature shall amend the statute in such manner as to authorize the acceptance of a bid for a depository at a lesser rate of interest, or in the event of such change by the legislature requiring the payment of a lesser rate by the depository after the effective date of such amendment.

Respectfully,
JOHN W. BRICKER,
Attorney General.

2311.

VILLAGE—MAYOR AND MARSHAL RE-ELECTED TO SECOND TERM MAY NOT LEGALLY REFUSE TO QUALIFY AND THEREBY CONTINUE IN OFFICE UNDER FIRST TERM.

SYLLABUS:

1. *A village mayor and marshal cannot legally refuse to qualify for a second term to which they have been elected, and thereby hold office under a continuation of their first term of office.*

COLUMBUS, OHIO, February 23, 1934.

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

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

> "We are inclosing a letter received from Frederick W. Green, Solicitor of the Village of Brooklyn, containing a question which we have been asked to submit to you for an opinion.
>
> It is our thought that the provisions of section 4242, G. C., might have some bearing on the question submitted."

The letter enclosed with your communication reads as follows:

> "A question has arisen in Brooklyn Village involving the construction of the provisions forbidding changes in salaries within the period of existing terms of office of certain village officials, which, in my opinion, ought to be submitted to the Attorney General for decision.
>
> The facts are as follows: Late in 1933, the council adopted an ordinance reducing the salaries of the Mayor and Marshal. This ordinance became effective before January 1, 1934. The incumbents of both offices have been re-elected. They have not qualified for the new term, but