

In the case to which you have called my attention, the council by selling the utility abolished all the duties to be performed by the board of public affairs, and this in my opinion, abolished the office as effectually as though they had by direct legislation abolished the office itself.

In Mechem on Public Offices, Section 405, it is said:

"Where an office is created, or an officer is appointed for the purpose of performing a single act, or the accomplishment of a given result the office terminates and the officer's authority ceases with the accomplishment of the purpose which called it into being."

It is therefore my opinion that, inasmuch as boards of public affairs are created for a definite purpose, when the authority creating the board takes such action as they did in this case as to make the accomplishment of the purpose for which the board was created complete they, by that act, abolish the office just as effectually as though they had in certain and definite language abolished the same, and that inasmuch as the office is so abolished the board ceases to function.

Respectfully,
EDWARD C. TURNER,
Attorney General.

140.

**ACTION TO ENFORCE THE LIEN OF ASSESSMENTS CHARGED
AGAINST LANDS—COUNTY TREASURER MAY JOIN LANDS AND
OWNERS IN ONE ACTION.**

SYLLABUS:

In actions to enforce the lien of assessments charged against lands or lots or parcels thereof (Section 2667, General Code), the county treasurer may, under the provisions of General Code, Section 2671, join in one action, all or any number of lots or lands, and a petition making the owners of such lots or lands defendant in the same action would not be demurrable for misjoinder of causes of action or parties defendant.

COLUMBUS, OHIO, March 3, 1927.

HON. R. D. WILLIAMS, *Prosecuting Attorney, Athens, Ohio.*

DEAR SIR:—Receipt is acknowledged of your letter of recent date, which reads as follows:

"Inter-county Highway No. 159 runs from the city of Athens south to the Athens-Meigs county line. Portions of this highway have been improved at different times. It is now all improved from Athens to the Meigs county line. A certain part of the cost of this improvement has heretofore been assessed against the abutting property owners. No abutting property owner has paid his assessments payable in December 1925 and December 1926. There are one hundred and forty-nine (149) such abutting property owners.

Query 1. Does Section 2671 of the General Code of Ohio authorize the county treasurer of Athens county to bring a suit against these abutting property owners for the collection of these delinquent assessments wherein all of such abutting property owners are made parties defendant?

2. If in your judgment, Section 2671, General Code, does not authorize such a suit, then and in that event is there any authority in law justifying the joinder of these defendants in one action?"

Section 2671, General Code, provides as follows:

"In such proceedings the county treasurer may join in one action all or any number of lots or lands, but the decree shall be rendered severally or separately, and any proceedings may be severed in the discretion of the court for the purpose of trial, error or appeal, where an appeal is allowed, and the court shall make such order for the payment of the costs as shall be deemed equitable and proper."

The words "In such proceedings" used in this section relate to the actions authorized by Section 2667, General Code, Sections 2671 and 2667, together with Sections 2668 and 2670, inclusive, 2672 and 2673, having originally all been a part of Section 1104 of the Revised Statutes.

Section 2667, General Code, reads as follows:

"When taxes or assessments, charged against lands or lots or parcels thereof upon the tax duplicate, authorized by law, or any part thereof, are not paid within the time prescribed by law, the county treasurer in addition to other remedies provided by law may, and when requested by the auditor of state, shall enforce the lien of such taxes and assessments, or either, and any penalty thereon, by civil action in his name as county treasurer, for the sale of such premises, in the court of common pleas of the county, without regard to the amount claimed, in the same way mortgage liens are enforced."

The road in question being an inter-county highway, I assume that the assessments to which you refer were levied by virtue of either Section 1192 or Section 1214 of the General Code against the *land* abutting on the improvement and not against the "abutting property *owners*" as stated in your letter.

It has been held that:

"No taxes assessed upon lands can be collected by a personal action against the owner, unless they are by law made a charge against him."

Dreake, Treasurer of Brown county vs. Beasley, 26 O. S., 315.

Keeping in mind, then, the fact that the assessments in questions are a *charge* upon the *lands* assessed and not against the owners thereof, it is not difficult to understand the language of the legislature in Section 2671, supra, to the effect that "the county treasurer may join in one action *all or any number of lots or lands*, but the decree shall be rendered severally or separately," and it is obvious that if "all or any number of lots or lands may be joined, the owners thereof must be made joint defendants.

The question asked in your letter has heretofore been passed upon by this department in Opinion No. 3069, found in Opinions of Attorney General, 1922, Volume I, page 372, to which your attention is directed. The second paragraph of the syllabus in that opinion reads as follows:

"In proceedings to foreclose the lien of the state for taxes brought under Sections 2670 and 2671 of the General Code, different parcels, etc., may be joined in one action: but the decree in such cases must be rendered separately.

Such proceedings may be brought in the case of lands forfeited to the state for nonpayment of taxes."

And in the opinion, after quoting Section 2671, *supra*, this language is used at page 376:

"Here is express provision for the rendition of a separate or several decree in a case where several lots of lands are authorized to be joined in one action to foreclose."

Your attention is also directed to the case of *Gibson, Treasurer vs. Miller et al.* 7 O. C. C. (N. S.) 96, in which the court in holding Section 2671, *supra*, to be a remedial statute and therefore applicable to pending litigation, also held that a petition making a number of lot owners parties defendant, in the same action to collect assessments by foreclosure proceedings would not be subject to demurrer for misjoinder of parties, after the enactment of Section 1104, Revised Statutes, (General Code, Section 2671) in its present form (95 v. 93).

For the reasons given and following the authorities cited, I am of the opinion that in actions to enforce the lien of assessments charged against lands or lots or parcels thereof (Section 2667, General Code), the county treasurer may, under the provisions of General Code, Section 2671, join in one action all or any number of lots or lands, and that a petition making the owners of such lots or lands defendant in the same action would not be demurrable for misjoinder of causes of action or parties defendant.

Respectfully,
EDWARD C. TURNER,
Attorney General.

141.

DISAPPROVAL, ABSTRACT OF TITLE TO LAND IN CITY OF MANSFIELD FOR STATE ARMORY.

COLUMBUS, OHIO, March 3, 1927.

HON. FRANK B. HENDERSON, *Adjutant General, Columbus, Ohio.*

In re: Examination of Deed and Abstract of Title to lands in Mansfield for Armory purposes.

DEAR SIR:—I have examined the deed from the city of Mansfield to the state of Ohio, by which it is proposed to convey the lands therein described, consisting of 5.64 acres more or less, together with the abstract of title submitted by you with such deed.

My examination of the deed discloses that:

(1) The granting clause thereof conveys the property therein described to "The State of Ohio," words of succession, "its successors and assigns" being omitted after the name of the grantee. While the better practice would be specifically to state to "The State of Ohio, its successors and assigns," in view of the provisions of General Code, 8510-1 (111 v. 18) the pertinent part of which reads:

"The use of terms of inheritance or succession shall not be necessary to