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SCHOOLS—TREASURER OF CITY SCHOOL FUNDS IS CLERK OF BOARD OF EDUCATION OF CITY SCHOOL DISTRICT—AMENDMENT OF SECTION 4763 G. C. (109 O. L. 552) DOES NOT HAVE EFFECT OF GIVING NEW LIFE TO PROVISIONS THAT TREASURER OF CITY SHALL BE TREASURER OF SUCH CITY SCHOOL DISTRICT.

*The amendment of section 4763 G. C., as amended in H. B. 180, 109 O. L., 552, does not have the effect of giving new life to the provisions that the treasurer of a city shall be the treasurer of such city school district, because the General Assembly did not intend in the passing of an act "relative to exempted village school districts" that section 4763 G. C. should be a substitute for the provisions of 4782 and 7604 et seq. G. C. In a city school district the duties of treasurer of the school funds shall be performed by the clerk of the board of education of the city school district.*

COLUMBUS, OHIO, February 6, 1922.

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

GENTLEMEN:—Acknowledgment is made of the receipt of your letter requesting the opinion of this department upon the following question:

"Does the amendment of section 4763 G. C., as amended in 109 O. L., 552, have the effect of giving new life to the provisions that the treasurer of a city shall be the treasurer of such city school district when such treasurer has been dispensed with under the provisions of section 4782 of the General Code?"

Section 4763 G. C., as amended in 109 O. L., 552, reads as follows:

"In each city school district, the treasurer of the city funds shall be the treasurer of the school funds. In all exempted village, village and rural school districts which do not provide legal depositories as provided in sections 7604 to 7608 inclusive, the county treasurer shall be the treasurer of the school funds of such district."

Section 4782 G. C., as appearing in 108 O. L., p. 708, reads as follows:

"When a depository has been provided for the school moneys of a district, as authorized by law, the board of education of the district shall dispense with a treasurer of the school moneys belonging to such school district. The clerk of the board of education of such district shall perform all the services, discharge all the duties and be subject to all the obligations required by law of the treasurer of such school district."

Section 7604 G. C., providing for the creation of a depository for school funds in every school district of the state, is also pertinent, and as last amended in 109 O. L., p. 216, reads as follows:

"That within thirty days after the first Monday in January, 1916, and every two years thereafter, the board of education of any school district by resolution shall provide for the deposit of any or all moneys coming into

the hands of its treasurer. But no bank shall receive a deposit larger than the amount of its paid-in capital stock and in no event to exceed one million dollars, except that in case the board of education shall find that it will be for the best interests of any school district such bank or banks shall be permitted to receive an amount in no event to exceed five million dollars."

This depository section (7604 G. C.) was also amended by the preceding legislature so as to read:

"That within thirty days after the first Monday of January, 1916, and every two years thereafter, the board of education of any school district by resolution shall provide for the deposit of any or all moneys coming into the hands of its treasurer. But no bank shall receive a deposit larger than the amount of its paid-in capital stock, and in no event to exceed one million dollars." (108 O. L., 20.)

As amended in 106 O. L., 328, section 7604 G. C. read as follows:

"That within thirty days after the first Monday of January, 1916, and every two years thereafter, the board of education of any school district by resolution shall provide for the deposit of any or all moneys coming into the hands of its treasurer. But no bank shall receive a deposit larger than the amount of its paid-in capital stock, and in no event to exceed three hundred thousand dollars."

In comparing the various amendments to section 7604 G. C., by three different legislatures, as just quoted, it will be noted that the words "the board of education of any school district," that is, every school district, were always retained, the amendments being in raising the amount of funds which a bank might receive as a depository from a board of education from the three hundred thousand dollars, as amended in 106 O. L., 328, to the one million dollars, as amended in 108 O. L., part 1; page 20, and increased in 109 O. L., 216, to five million dollars. These necessary increases in amount were brought about in practical operation through the consolidation of banks in the city districts of the state, where it was shown that the school district had more money on its hands than could be placed legally in the depositories under the old limitations as to the amount which each bank might receive. The basic feature that every board of education should provide for the deposit of all moneys coming into the hands of its treasurer was always retained and the language of section 7609 G. C., as enacted in 106 O. L., 328, has never been changed, such section reading in part as follows:

"Upon the failure of the board of education of any school district to provide a depository according to law, the members of the board of education shall be liable for any loss occasioned by their failure to provide such depository, and in addition shall pay to the treasurer of the school funds two per cent on the average daily balance on the school funds during the time said school district shall be without a depository. \* \* \*"

This section is still in force, penalizing members of boards of education who neglect to select a depository, and no change was made in this section by the eighty-fourth General Assembly, which passed House Bill 180, containing an amendment to section 4763 G. C., which amendment is the cause of your inquiry.

As clear evidence that the clerk of the board of education should be the treasurer of the school district, your attention is invited to the following excerpts from former opinions by this department:

"Section 7604 of the General Code makes it mandatory upon the board of education of a school district to establish a depository and when it fails so to do legal proceedings may be invoked to compel the same."

(Annual Report of the Attorney-General, Vol. I, 1912, p. 329.)

"Section 4782, General Code, as amended, 104 O. L., 159, provides for creating a depository for the school moneys of the school district, in which event the board of education, by resolution adopted by a vote of a majority of its members, shall dispense with the treasurer of the school moneys belonging to such school district. Said section carries the provision that upon the establishment of such depository, and the dispensation of the treasury on the part of the board of education, thereupon the clerk of the board of education of such district shall perform all the services, discharge all the duties and be subject to all the obligations required by law of the treasurer of such school district.

"Upon consideration of sections 4763 to 4784, General Code, the clerk of the board of education can receive extra compensation for performing the duties of treasurer of such board, and the board of education has the legal right to fix the compensation of such clerk, when he is required to perform the added duties of treasurer of the board of education, because of the dispensation of said treasurer under section 4782 General Code."

(Opinion 1141, Annual Report of the Attorney-General for 1914, Vol. 2, p. 1202.)

"It is necessary for the clerk of the school board to give a new bond when such clerk assumes the duty of the treasurer of the school funds."

(Annual Report of the Attorney-General, Vol. 2, 1914, p. 1765.)

"In view of the fact, however, that there is no authority to elect a treasurer at such first organization, and in view of the obvious policy of section 4782, as amended, I am of the opinion that after such first organization it will be the duty of the clerk of the board of education to perform such services (treasurer) when a depository has been provided for the school moneys of the district."

(Opinions of the Attorney-General, Vol. 2, 1915, p. 1358.)

"When a depository has been provided by a city board of education for its school funds, as authorized by law, the board of education of the district must dispense with the treasurer, and the clerk of the board of the city school district performs all the services and duties of such treasurer."

(Opinions of the Attorney-General, Vol. I, 1915, p. 71.)

"Where the board of education of a village or rural school district has provided a depository for the funds of said district and has dispensed with the position of treasurer of said funds, under authority of said section 4782 G. C., the clerk of said school district having succeeded to the duties of treasurer of said funds under the provision of the latter part of said section 4782 G. C., is treasurer of the library fund of said district."

(Opinion 1059, Opinions of the Attorney-General for 1915, Vol. 3, page 2309.)

"In a school district in which a school teachers' pension fund has been established and is being maintained, and in which the board of education has provided a depository for the school funds in the manner authorized by law, and has dispensed with the treasurer of said funds under authority of said section 4782 G. C., the clerk of said board, who is now performing all the services and discharging all the duties, and who is subject to all the obligations required by law of the treasurer of such school district, is treasurer of said school teachers' pension fund under provision of said section 7889 G. C."

(Opinions of the Attorney-General for 1916, Vol. 1, p. 266.)

"Where the board of education of a school district, which maintains a school teachers' pension fund, has provided a depository for the school funds of said district in the manner authorized by law and has dispensed with the treasurer of said funds under authority of section 4782 G. C., 104 O. L., 159, the clerk of said board of education succeeds to the duties of said treasurer by provision of the latter part of said section 4782 G. C. and under provision of section 7889 G. C. said clerk-treasurer, upon giving the bond required by said section, becomes treasurer of the board of trustees of said school teachers' pension fund and custodian of said fund.

"Neither the board of education of said school district nor the board of trustees of said school teachers' pension fund have any authority in law to provide a depository for said fund for the purpose of relieving the clerk-treasurer as a custodian of said fund of any and all liability incident to the care and custody of moneys belonging to such fund."

(Opinions of the Attorney-General, 1916, Vol. 2, p. 1092.)

"Where more money comes into the hands of a board of education, through the issue of bonds, than can be lawfully deposited in the bank of such district, by reason of the limit of the capital stock being reached, such board may contract with outside banks for the excess.

"If a board of education fails or refuses to establish a depository for its school funds, the members of such board shall become liable in a sum of at least two per cent on the average daily balance of such funds and shall also be liable for any loss of such funds."

(Opinions of the Attorney-General for 1917, Vol. 2, p. 1658.)

In the year 1920 the question was submitted to this department from the Bureau of Inspection and Supervision of Public Offices, upon the request of the city solicitor of Bellefontaine, as to who was the treasurer of the board of education of the Bellefontaine city school district in the light of the decision of the supreme court in the case of State ex rel. vs. O'Brien, 95 O. S., 167. At that time there was pending in the supreme court the case of Kinsinger vs. Board of Education of DeGraff village school district, and after the supreme court had decided the Kinsinger case it was held by this department that the decision of the court settled the question as to who was the treasurer of the Bellefontaine city school district, the syllabus of Opinion 1465, issued on July 29, 1920, by this department, reading as follows:

"Under the provisions of section 4782 G. C. the board of education is required to dispense with the treasurer of the school moneys where a depository for such moneys has been provided by the board of education, and upon the establishment of such depository the clerk of the board of educa-

tion of such school district shall perform all the services and duties of such treasurer.

“The express repeal of a section of the statutes providing for the appointment of a treasurer of the board of education cannot be held to work an implied repeal of the various sections conferring power upon and assigning duties to the clerk of the board of education, in view of the express provisions enacted at the same time whereby such clerk of the board of education succeeded to those very powers and duties. These provisions are thus specifically kept in force and effect, and in assigning the duties of the treasurer of a board of education to the clerk of such board of education, no repealed statute was revived or attempted to be revived as were the facts involved in the case of Godfrey vs. O'Brien, 95 O. S., 166.”

Bearing upon section 4763 G. C., the subject of your inquiry, this department said on page 814 of Vol. 1, Opinions of the Attorney-General for 1920:

“Section 7604 provides that the board of education of any school district, that is all school districts, must provide for a depository, and being a later enactment than the language appearing in section 4763, *must be held to nullify the provisions of the latter section.*”

The history of section 4763 G. C. may be briefly stated that in 1904, what is now section 4763 G. C., then 4042 R. S., was amended to read as follows:

“In each city, village and township school district, the treasurer of the city, village and township funds shall be respectively the treasurer of the school funds. \* \* \*”

Said section was carried into the General Code at the time of its enactment in the above identical form, but in 1914, 104 O. L., p. 159, said section 4763 was amended to read as follows:

“In each city school district, the treasurer of the city funds shall be the treasurer of the school funds. In all village and rural school districts which do not provide legal depositories, as provided in section 7604 to 7608, inclusive, the county treasurer shall be the treasurer of the school funds of such districts.”

Section 4763 G. C., while practically a nullity during all these years, as shown by the opinions of the Attorney-General quoted heretofore, was never repealed by the legislature. With the mandatory establishment of depositories by boards of education and the provision that the clerk should be the treasurer of the school district in every district of the state (4782 G. C.), the conflict appearing between 4763 G. C. and 4782, along with sections 7604 et seq., was so apparent that there seemingly was no question but what section 4763 G. C. was inoperative, as it conflicted with other sections of the law which treated upon specific matters as to the deposit and care of school funds in every district. With section 4763 G. C. in this condition, inoperative and a practical nullity, there was introduced in the House of Representatives House Hill 180, being “a bill to amend sections 4679, 4688, 4708, 4747, 4763, 7610-1, 7679, 7690, 7702, 7703, 7731 and 7731-1 and to supplement section 7838 of the General Code by the enactment of supplemental section 7838-1, *relative to exempted village school districts.*” The subject of this bill was “exempted village school

districts" and the General Assembly apparently had in mind that it was legislating upon the subject in the title of the bill when it passed H. B. 180, which amended section 4763 G. C. by the mere insertion in the section of the words "exempted village," the purpose being to create a new kind of school district, that is, the exempted village school district along with the city, village and rural school districts. A careful examination of this bill and the history of this legislation shows that the framers of the bill believed that in order to create the "exempted village" school district it was necessary throughout all the section of the statutes mentioning mere "village school" districts, to insert the words "exempted village school district," and thus we find so many section numbers mentioned in the title of the bill, it being felt that each and every one of these sections should contain the words "exempted village" school district.

Article II, section 16, of the Ohio Constitution, says:

" \* \* \* No bill shall contain more than one subject, which shall be clearly expressed in its title, and no law shall be revived or amended unless the new act contains the entire act revived, or the section or sections amended, and the section or sections so amended shall be repealed. \* \* \*"

Attention is invited to the fact that while the title of the bill was "relative to exempted village school districts," an examination of H. B. 180 shows that in several instances the proposed legislation went far from the title of the bill. Thus H. B. 180, as originally introduced and passed in the House of Representatives, changed section 7690 G. C., the section giving general powers to boards of education and naming no particular kind of school district, by changing these words appearing in old section 7690, to wit, "each board of education shall fix the salaries of all *teachers*, which may be increased but not diminished during the term for which the appointment is made," so as to read in this manner:

"The salary of any person in the employ of the board, who is required to have a teacher's certificate, may be increased but not diminished during the term for which the appointment is made."

The effect of this legislation appearing in a bill "relative to exempted village school districts" would be to permit superintendents to have their salaries raised by the board of education during the time of contract, a question which was at that time pending in the supreme court of the state in the case of *State of Ohio ex rel. Clarke vs. Cook*, which was decided on November 22, 1921 (No. 16539) by the supreme court, holding that the salaries of superintendents could not be changed during the time of contract. Again in section 7702, as appearing in H. B. 180, and immediately following the proposed section 7690, it was provided that the superintendent of public schools in an exempted village district could be elected for a term of "five school years." Reference to the journal of the Senate will show that both of the proposed sections 7690 and 7702 were stricken from H. B. 180 in the Senate, for the General Assembly had already passed one section 7690 in H. B. 100 (Bing Law) and had also passed H. B. 143, amending section 7700 G. C., by providing in the future that any superintendent, principal or teacher who violated his contract should have his certificate suspended for the period of time covered by the unfulfilled contract. But the General Assembly in taking notice that it had already amended section 7690 in H. B. 100, and had also amended section 7700 in H. B. 143, relative to contracts of teachers, apparently failed to catch the significance of amending section 4763 G. C., a section which had been dead for a number of years,

having been held to be nullified by other enactments, as in 4782 G. C. and 7604 G. C. The amendment to section 4763 G. C., as appearing in H. B. 180, became effective, from the standpoint of time, as of September 7, 1921, and if it was to be the law of the state as regards the fiscal office in a city school district, then on September 7th, in the nearly one hundred city school districts of the state, the city treasurer should have succeeded the clerk of the board of education in the city school district as treasurer and taken entire charge of the school funds, which funds in some districts, where building programs were on and bonds had been sold, run into millions of dollars. As far as could be observed no tendency appeared in any of the city school districts of the state to carry out this change mentioned in section 4763 G. C. The carefully worked out plan of having a school depository, as provided in section 7604 to section 7608, inclusive, with the clerk acting as treasurer, under section 4782 G. C. was to all appearances entirely satisfactory in the districts concerned, its worth having been proven in the past several years. Again, in January, 1922, a new set of municipal officers, including a city treasurer, took charge in Ohio cities, and a new set of school officers, in part, took charge of the affairs in these city school districts. Just as no move was made in September in these city districts (containing three and one-half millions of the people in this state) to change financial officers of boards of education, the same view existed in January, 1922, when new officers went into office, and no desire to change the financial officer in question in the city school district appeared at that time. All that did appear in school affairs was the desire in certain isolated cases throughout the state to be fully advised, *from a legal standpoint*, as to *whether the change should be made*, whether section 4763 really was effective, and whether in these cases the clerk of the board of education or the city treasurer should be made the custodian of the school funds. The desire of these few city school districts out of the nearly one hundred city school districts of the state to know *whether they must make this change* is apparently the cause of your inquiry for the opinion of this department.

One of the later decisions of the supreme court bearing upon a matter of this kind reads:

"An act of the legislature that fails to repeal in terms an existing statute on the same subject-matter must be held to repeal the former statute by implication if the later act is in direct conflict with the former, or if the subsequent act revises the whole subject-matter of the former act *and is evidently intended as a substitute for it.*"

(Goff et al. vs. Gates et al., Commissioners, vs. Granger, 87 O. S. 142.)

Bearing upon the first part of this decision of the supreme court, it is true that the later act (4763 G. C.) is in direct conflict with the former law upon the question of who shall be the treasurer of the school funds in a city school district, and if this portion of the decision stood alone, it would appear that the amendment of section 4763 G. C. (an inoperative section) by the General Assembly, being a later enactment, would repeal by implication the former sections upon this subject. But the supreme court has added an alternative in the closing language of this decision, which is very significant and should be given great weight in the consideration of the case at hand. Thus the decision says that "if the subsequent act revises the whole subject matter of the former act, and is evidently intended as a substitute for it," the subsequent act (in this case amending 4763 G. C.) would repeal by implication those portions of section 4782 and section 7604 et seq. which would conflict with the later enactment. Can it be said that the amending of section 4763 G. C. (a section which had been inoperative and a nullity for several years) by the General Assembly was intended as a substitute" for the former law and the existing status which had

satisfactorily provided that in a city school district, as in other school districts, the clerk should be the treasurer of the district? As far as legislative intent is concerned the evidence all points the other way. Here was a bill (H. B. 180) the subject of which was "exempted village districts" and the bill in its title made no reference to "city school districts" nor was any reference made in the title to the changing of the office of treasurer in a city school district. The exempted village school districts are those village districts which have a population of from three thousand to five thousand; when five thousand population is reached the village school district becomes a city school district. The city school districts of the state, containing more than sixty per cent of the population of the state, were not interested in H. B. 180, for it was a bill "relative to exempted village school districts." However, the framers of the legislation, interested as they were in "exempted village school districts," included section 4763 G. C. in H. B. 180, and 4763 G. C. mentions that in city school districts the city treasurer shall be treasurer of the school funds, but this was not in force at the time that the General Assembly was considering H. B. 180, and there is no evidence to show that the General Assembly intended to revive or re-enact section 4763 for the purpose of changing the fiscal officer in the city school districts of the state. It is interesting to note that this same General Assembly, desiring to revive and renew section 7629, which was held by a number of leading bond attorneys of the state to have been repealed by implication by the decision of the supreme court in the case of Rabe vs. Board of Education, 88 O. S., 409, passed Senate Bill 257, "An act to *re-enact* section 7629 of the General Code and to amend section 7630 of the General Code," etc. This is a parallel case of where a section of the law, upon which there was a cloud as to its effectiveness, on account of other sections of the law, was desired to be revived and renewed by passing it again as a later act than those with which it conflicted. This same General Assembly which revived and renewed section 7629, by re-enacting the section in S. B. 257, also amended section 4763 in H. B. 180, as indicated above. Senate Bill 257 is significant as showing what the 84th General Assembly desired to do in reviving a section of law which was believed by many to be inoperative and a nullity in practice. After re-enacting 7629 G. C., the assembly amended section 7630 G. C. in the same act by adding language which provided that all that had been done heretofore under section 7629 G. C., in the matter of bond issues, "shall be held to be legal," and then followed the emergency clause providing that S. B. 257 should go into immediate effect because "doubts exist in relation to the sections amended by this act, making it impossible to sell bonds to provide prompt and urgent relief."

The question as to who should be the fiscal officer in the city school districts of the state, the largest of which contains nearly one million people, is so important that it would appear if the General Assembly intended to legislate upon the subject of the "treasurer in a city school district" this important subject would have likely appeared in the title of the bill, so that the many members of the legislature, representing city school districts, would have understood the full import of the bill. What happened was that the General Assembly, knowing and believing that the clerk of the board of education of the city school district was also the treasurer of such district, amended section 4763 G. C., which was inoperative in the city districts of the state, because of 4782 and 7604 G. C., without apparently intending that the treasurer in the city school district should be changed from the status provided under section 4782 G. C., making the clerk the treasurer.

We thus come to the question of what was the intent of the 84th General Assembly when it amended section 4763 G. C. in H. B. 180. The rule in cases of this kind has been well stated in 25 Ruling Case Law, the following being excerpted from pages 216 to 223, inclusive, under the subject of statutes:

"214. The most common occasion for construing statutes is where there is found in a statute some obscurity, ambiguity or other fault of expression; for in that case it is necessary to interpret the law in order to discover the true meaning. And if the legislature has enacted two or more statutes which from their wording appear to be inconsistent, \* \* \* there is an ambiguity \* \* \*. Another occasion for construing a statute is where uncertainty as to its meaning arises not alone from ambiguity of the language employed, but from the fact that giving a literal interpretation to the words will lead to such unreasonable, unjust or absurd consequences as to compel a conviction that they could not have been intended by the legislature."

"215. \* \* \* *The true rule is that statutes are to be construed as they were intended to be understood when they were passed. Statutes are to be read in the light of attendant conditions and the state of the law existing at the time of their enactment.* The words of a statute must be taken in the sense in which they were understood at the time when the statute was enacted. \* \* \*

"216. In the interpretation and construction of statutes the primary rule is to ascertain and give effect to the intention of the legislature. As has frequently been stated in effect, *the intention of the legislature constitutes the law.* All rules for the interpretation and construction of statutes of doubtful meaning have for their sole object the discovery of the legislative intent, and they are valuable only in so far as, in their application, they enable us the better to ascertain and give effect to that intent. Even penal laws which it is said should be strictly construed ought not to be so construed as to defeat the obvious intention of the legislature.

"222. It often happens that *the true intention of the law-making body*, though obvious, is not expressed by the language employed in a statute when that language is given its literal meaning. In such cases, the carrying out of the legislative intention, which, as we have seen, is the prime and sole object of all rules of construction, can only be accomplished by departure from the literal interpretation of the language employed. Hence the courts are not always confined to the literal meaning of a statute; the real purpose and intent of the legislature will prevail over the literal import of the words. *When the intention of a statute is plainly discernible from its provisions that intention is as obligatory as the letter of the statute, and will even prevail over the strict letter.* The reason of the law, as indicated by its general terms, should prevail over its letter, when the plain purpose of the act will be defeated by strict adherence to its verbiage. \* \* \* The legislative intention, as collected from an examination of the whole as well as the separate parts of a statute, will prevail over the literal import of particular terms, and will control the strict letter of the statute, where an adherence to such strict letter would lead to injustice, to absurdity, or *contradictory provisions.* It is an old and unshaken rule in the construction of statutes that the intention of a remedial statute will always prevail over the literal sense of its terms, \* \* \*. Every statute, it has been said, should be expounded, not according to the letter, but according to the meaning, for he who considers merely the letter of an instrument goes but skin deep into its meaning. \* \* \* Whenever the legislative intention can be discovered, it ought to be followed with reason and discretion in the construction of the statute, although such construction may seem contrary to the letter of the

statute. It is a familiar canon of construction that a thing which is within the intention of the makers of a statute is as much within the statute as if it were within the letter; and a thing which is within the letter of the statute is not within the statute *unless it be within the intention of the makers*. The principle that if a thing, although within the letter of the law, is not within the intention of the legislature, it cannot be within the statute, has been applied in cases where there was presented a definite evil, in view of which the legislature used general terms with the purpose of reaching all phases of that evil, and thereafter, unexpectedly, it is developed that the general language thus employed is broad enough to reach cases and acts which the whole history and life of the country affirm could not have been intentionally legislated against, or cases which could not have been legislated upon because of constitutional limitations on the legislative power. \* \* \* The letter of a statute must not be unreasonably violated; *it is to be sacrificed only so far as is necessary to give effect to the legislative intent*. The rule has no application at all where the intention of the legislature, as expressed in the law, is reasonably free from doubt. The rule is to be applied only where there are cogent reasons for believing that the letter *does not fully and accurately disclose the intent*. \* \* \* In order that a statutory provision may be construed differently from its literal meaning, it must be inconsistent with or repugnant to some other provision in or the general purview of the act. \* \* \*

"223. \* \* \* Where the literal construction of an act will produce results *so extraordinary and unjust that they cannot be deemed to have been within the legislative intent, the general language of the act must be restricted so as to accomplish the general intent*. \* \* \* All laws should receive a sensible construction. General terms should be so limited in their application as not to lead to injustice, oppression, or an absurd consequence, and may be restricted in meaning to adopt their meaning to the subject matter in reference to which they are used. Although the language of a statute is general, it may be limited in its operation to cases falling within the mischief intended to be remedied. \* \* \* It is in the last degree improbable that the legislature would overthrow fundamental principles, infringe rights, or depart from the general system of law, without expressing its intention with irresistible clearness; and to give such effect to general words simply because, in their widest and perhaps natural sense, they have that meaning, would be to give them a meaning in which they were not really used. It is therefore an established rule of construction that general words and phrases, however, wide and comprehensive in their literal sense, must be construed as *strictly limited to the immediate objects of the act*. \* \* \*"

In conclusion it must be held that if the 84th General Assembly intended to revive old section 4763 G. C., relative to making the city treasurer, rather than the clerk of the board of education of the district, the treasurer of the school funds in the city school district, *it would have amended section 4782 G. C.*, which provides that *in all school districts* of the state the clerk shall assume the duties of the treasurer; if it was desired to change the fiscal procedure in the city school districts of the state by simply amending section 4763 G. C., the General Assembly would likely have amended sections 7604 et seq. G. C., providing for the school depository system in all school districts. If the General Assembly intended that the city treasurer should also be the treasurer of the city board of education, then the General Assembly more than likely would have provided by further legislation for the giving of a

bond by the city treasurer for the custody of the school funds, which in some of these city school districts run into millions. It would appear too that if the General Assembly desired that the city treasurer should perform the duties of the treasurer of the city school district, handling large sums in addition to his municipal financial transactions, the General Assembly more than likely by other legislation would have provided for the remuneration of the city treasurer in assuming these duties. None of these things were done. At the present time the office of clerk of the board of education in these city school districts has become so important, after assuming the duties of treasurer also, that all the boards of education have provided a salary for the clerk sufficiently large to remunerate him for his duties as "clerk-treasurer" (4782) and greatly increased his bond. These city boards of education organized in January, 1922, by electing a person to be clerk of the board, fixed his term, fixed his salary, and fixed his bond as clerk-treasurer, as they had done for a number of years before, understanding when they elected him as clerk that under 4782 G. C. he was also the treasurer of the city school district. To hold that these city school districts would now have to change their treasurer because certain language inadvertently appeared in a section of a bill passed, *the subject of which was conditions in rural and not urban communities*, would create a chaotic condition in the school affairs of the city school district which was hardly intended by the General Assembly when it passed H. B. 180, an act "relative to the creation of exempted village school districts."

Based upon the sections of the law stated and the facts given, you are therefore advised that it is the opinion of this department that the amendment of section 4763 G. C., as amended in H. B. 180, 109 O. L., 552, does not have the effect of giving new life to the provisions that the treasurer of a city shall be the treasurer of such city school district, because the General Assembly did not intend in the passing of an act "relative to exempted village school districts" that section 4763 G. C. should be a substitute for the provisions of 4782 and 7604 et seq. G. C. In a city school district the duties of treasurer of the school funds shall be performed by the clerk of the board of education of the city school district.

Respectfully,  
 JOHN G. PRICE,  
*Attorney-General.*

2845.

APPROVAL, BONDS OF BELMONT COUNTY, OHIO, IN AMOUNT OF  
 \$36,400 FOR ROAD IMPROVEMENTS.

COLUMBUS, OHIO, February 7, 1922.

*Department of Industrial Relations, Industrial Commission of Ohio, Columbus, Ohio.*