

acting as a deputy county treasurer, may not go into another county and seize the personal property of a delinquent taxpayer and return the same to his own county for sale; nor can the county treasurer of one county appoint the sheriff of the county into which the property was moved to act as his deputy and sell the property there. The taxes on the property must be collected exclusively by suit against the owner of the property.

April 22, 1933.

It appears from your request for opinion that on the first Monday of March, 1932, a man resided in Sweet Grass County and owned and possessed personal property therein but never owned any real property. Thereafter, and without paying the taxes which were due, he removed the personal property to another county in the state and took up his residence therein. You have propounded three questions dealing with the matter and we shall undertake to answer them in their regular order.

1. May the sheriff of this county, as a deputy county treasurer appointed by the county treasurer under the provisions of Section 2239 Revised Codes 1921, as amended by Section 2, Chapter 102, Laws of 1923, go into such other county and seize the personal property mentioned and return the same to this county for sale? Our answer is "no". The language of the statute is not broad enough to confer any such authority. Furthermore, Section 2239, as amended, must be read with Section 2238 as amended by Chapter 143, Laws of 1929, which specifically refers to personal property in the county and does not mention personal property without the county at all. (See *Perham v. Putnam*, 82 Mont. 349).

2. Has the county treasurer of Sweet Grass County authority to appoint the sheriff of the county into which the property was moved, his deputy, and if so, may the property be sold by such sheriff in his county as such deputy treasurer? Our answer to the first part of the query is "no". So far as we can discover there is no law which vests the county treasurer with any such authority. The power to ap-

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Property—Sheriffs—County Treasurers.**

HELD: The sheriff of one county,

point is confined to the sheriff of his own county. The general rule is that the powers and authority of a public officer are fixed and determined by law. In addition to the powers expressly conferred upon him by law, he has by implication such powers as are necessary for the due and efficient exercise of those expressly granted, or such as may be fairly implied therefrom. But no powers will be implied other than those which are necessary for the effective exercise and discharge of the powers and duties expressly conferred and imposed, and where the mode of performance of ministerial duties is prescribed, no further power is implied. (In re Farrell, 36 Mont. 254; 46 C. J. 1031, 1032). The negative answer to the first part of the question obviates an answer to the second part thereof.

3. Must the taxes on the property be collected exclusively by suit against the owner of the property? We are constrained to answer this question in the affirmative. Our laws, seemingly, do not prescribe any method other than a civil action to enforce payment of the taxes under the circumstances here existing. (See Section 2226 Revised Codes 1921; Lemhi County v. Boise Livestock Loan Co., 278 Pac. 214; Kansas City v. Field, 226 S. W. 27; Marion County v. Woodburn Mercantile Co., 119 Pac. 487, 41 L. R. A. (N. S.) 730; 61 C. J. 1051-1054).