Thus by the surrender of the office by his predecessor and the qualification of the incumbent in question, the term of the office of the predecessor was terminated and the incumbent in question became a de facto councilman. See also Terre Haute v. Burns (1918), 69 Ind. App. 7. As a de facto officer, the acts of the questioned incumbent would be valid acts and would bind the city.

I am, therefore, of the opinion that in answer to your questions it must be held that the councilman in question; while not eligible or qualified to take an oath of office after he removed from his councilmanic district and while legally ineligible to serve as such councilman after his removal, was a de facto officer and his acts as councilman are binding upon the city, at least until his eligibility is challenged by proper judicial proceedings.

I am further of the opinion that the qualification by this councilman and the surrender of such office by his predecessor terminated the term of the predecessor and that such predecessor does not hold over.

OFFICIAL OPINION NO. 13
February 17, 1948.

State Board of Tax Commissioners,
301 State House,
Indianapolis 4, Indiana.

Gentlemen:

I acknowledge receipt of your letter of January 23rd requesting my opinion as to whether or not automobiles given to disabled servicemen by the Federal government are subject to property tax.

I call your attention to the provisions of Public Law No. 663, 79th Congress, approved August 8, 1946 (Sec. 252, Title 38, U.S.C.A.), a portion of which is as follows:

"Automobiles and other conveyances for disabled veterans: To enable the Administrator of Veterans’ Affairs to provide an automobile or other conveyance, at a cost per vehicle or conveyance of not to exceed $1,600, including equipment, with such special attach-
ments and devices as the Administrator may deem necessary, for each veteran of World War II who is entitled to compensation for the loss, or loss of use, of one or both legs at or above the ankle under the laws administered by the Veterans’ Administration, $30,000,000: Provided, That no part of the money appropriated by this paragraph shall be used for the repair, maintenance, or replacement of any such automobile or other conveyance and no veteran shall be given an automobile or other conveyance under the provisions of this paragraph until it is established to the satisfaction of the Administrator that such veteran will be able to operate such automobile or other conveyance in a manner consistent with his own safety and the safety of others and will be licensed to operate such automobile or other conveyance by the State of his residence or other proper licensing authority: Provided further, That under such regulations as the Administrator may prescribe the furnishing of such automobile or other conveyance shall be accomplished by the Administrator paying the total purchase price to the seller from whom the veteran is purchasing under sales agreement between the seller and the veteran.”

Also applicable is Section 454a, Title 38, U.S.C.A., the applicable portions of which are as follows:

“Payments of benefits due or to become due shall not be assignable, and such payments made to, or on account of, a beneficiary under any of the laws relating to veterans shall be exempt from taxation, *** either before or after receipt by the beneficiary. Such provisions shall not attach to claims of the United States arising under such laws nor shall the exemption herein contained as to taxation extend to any property purchased in part or wholly out of such payments.”

Also applicable is Section 450 (4), Title 38, U.S.C.A., which reads as follows:

“(4) Any benefit payable or paid by the Veterans’ Administration shall be subject to the applicable pro-
visions of sections 454a and 556a of this title, as now
or hereafter amended: ** **.”

The automobile purchased for the veteran by the Veteran’s
Administration is a benefit to the veteran within the pro-
visions of the above act and is, in my opinion, to be exempted
from property taxation by the states.

OFFICIAL OPINION NO. 14

February 19, 1948.

Mr. Byron C. Kennedy,
Assistant Director,
Indiana Department of Conservation,
140 North Senate Avenue,
Indianapolis, Indiana.

Dear Sir:

I have your letter of January 30, which is as follows:

“Reference is made to Section III of Chapter 234 of
the Acts of 1947, Vol. I, page 885 in which an approi-
ation for the reconstruction, repair and equipment for
established State Parks and Memorials in the sum of
$990,550.00 is made from the Post War Construction
fund created by Section 13 of Chapter 357 of the Acts
of 1945.

“Your official opinion is requested as to whether or
not the appropriation referred to will revert and, if
so, when.”

Section 3 of Article 10 of the Constitution of Indiana is as
follows:

“No money shall be drawn from the Treasury, but
in pursuance of appropriations made by law.”

For a discussion of what is required to constitute an appro-
priation, we refer you to Official Opinion No. 116, dated
November 14, 1945, addressed to the Honorable Ralph F.
Gates, Governor.