

Moreover, section 6 of chapter 178 of the Acts of 1943 specifically exempts from its operation those cases where refunding bonds are to be issued and exchanged in amounts of less than \$5,000.00. It has been already pointed out that chapter 78 of the Acts of 1939 contemplates individual issuance of certificates of indebtedness in each case where a special assessment bond is presented for payment. The aggregate amount of such certificates of indebtedness cannot ordinarily be determined as the assessment bonds may or may not be presented and demand made for certificates. Nor can the amount of such individual certificate be ascertained except upon a determination of liability upon the particular bond presented. Chapter 178 of the Acts of 1943 can be therefore reasonably construed as being not applicable to the issuance of a certificate of indebtedness for the refunding of a special assessment bond in an amount of less than \$5,000.00 and practically all special assessment bonds are issued in denominations considerably less than that figure.

I am, therefore, of the opinion that, where a certificate of indebtedness is issued in exchange for a special assessment bond under the provisions of section 1 of chapter 89 of the Acts of 1939, it is not necessary that such certificate be advertised and sold under the provisions of chapter 178 of the Acts of 1943 and that such certificates may be issued directly to the holders of the Barrett Law bonds and coupons upon which the city has become liable. This opinion is not to be construed as being applicable to section 2 of said chapter 89 which is not here in question.

OFFICIAL OPINION NO. 60

July 6, 1945.

Hon. Clarence E. Ruston,
State Examiner,
State House,
Indianapolis, Indiana.

Dear Sir:

I acknowledge receipt of the letter of your predecessor under date of May 15, 1945, in which is asked my official opinion upon the following proposition:

“This department has been asked whether there is any statute limiting the period within which an action may be commenced against a city for the recovery of the amount of the city’s liability on Barrett Law bonds and coupons, and whether such statute of limitation, if any, would apply to the *presentation and demand* as provided for by Chapter 89, Acts of 1939.”

The general purpose of Chapter 89 of the Acts of 1939 is outlined in my opinion No. 59 to you. A skeleton quotation of the parts of Section 1 of Chapter 89, which I believe are pertinent, is as follows:

“That whenever any improvement bonds or interest coupons have been issued by any city or town *at any time* pursuant to the several acts * * * commonly called ‘the Barrett Law’, * * *, *and where any portion of such bonds or coupons have not been paid or cannot be paid* * * *, *and in consequence of which the municipality issuing the same has become liable*, then, in any such instance, such city, by its city controller, * * *, upon presentation and demand, shall issue and deliver, * * *, certificates of indebtedness, * * *: *Provided*, That the provisions of this section shall not apply to any such bonds or coupons maturing prior to January 1, 1929; * * *.”
(Our emphasis.)

By the provisions emphasized, it can be seen that the mandatory duty is placed upon the city controller to issue the certificates where the city has become liable and this mandatory duty is not conditioned upon a continuance of such legal liability. The certificates are to be issued in exchange for bonds issued by the city “at any time” after January 1, 1929. No other time limitation appears in the Act.

It is a fundamental rule of statutory constitution that the expression of one thing is exclusion of the other.

Branson v. Studabaker (1892), 133 Ind. 147, 153;

Princeton Coal Co. v. Fettinger (1916), 185 Ind. 675, 677;

Evansville v. State (1888), 118 Ind. 426, 442.

The Act contains a limitation within itself and expressly provides that it covers all bonds issued at any other time. This would exclude any construction which would incorporate another and additional time limitation.

I am, therefore, of the opinion that no statute of limitation applies to the issuance of certificates of indebtedness under Section 1 of Chapter 89 of the Acts of 1939, except the limitation that bars the issuance of such certificates in exchange for bonds or coupons maturing prior to January 1, 1929.

OFFICIAL OPINION NO. 61

July 10, 1945.

Col. A. R. Killian, Superintendent,
Indiana State Police,
State House,
Indianapolis, Indiana.

Dear Sir:

This will acknowledge your letter of June 4, 1945, asking my opinion as to whether "transportation" license plates are required on trailers belonging to the United States Navy being transported over the public highways in Indiana under a government bill of lading.

The facts set out in the letter of inquiry to you include the following:

The driver, (X), employed by a private concern, was arrested for failure to have a "transport" plate on a trailer which he was transporting upon the highways of Indiana; the trailer was known as a "Schult" purchased by the United States Navy at Elkhart, Indiana, and being transported for the Navy, on a government bill of lading to DeLand, Florida.

Other facts which will be assumed for the purpose of this opinion are:

That the driver who was arrested possessed the required personal operator's or chauffer's license and was operating a tractor which was properly licensed as such