

*county treasurer as a part of his duties as county treasurer. \* \* \** (Last emphasis ours.)

It is therefore apparent under the case of Conter, Treasurer *v.* Post, *supra*, that the county treasurer in acting as ex officio city treasurer in such cities, and in collecting a salary therefor, does so as a part of his duties as county treasurer and not as city treasurer of any such city.

An investigation of county treasurers' reports as well as a consideration of the application of each of the foregoing statutes reveals that in no case does a county treasurer receive as much as ten thousand dollars (\$10,000.00) in any one (1) year from a combination of his salary as county treasurer and from his salary as ex officio treasurer of the city. Therefore Chapter 192 of the Acts of 1945, *supra*, does not tend to decrease the salary a county treasurer receives for his services ex officio as city treasurer, but only tends to limit him in *fees* provided by said statute to an amount sufficient to increase his compensation to a maximum ten thousand dollars (\$10,000.00).

I am therefore of the opinion the salary received by a county treasurer for services rendered as ex officio city treasurer is to be considered a part of the compensation of the county treasurer under the limitation of ten thousand dollars (\$10,000.00) in one (1) year as provided by Chapter 192, Acts of 1945, subject to the qualification exempting treasurers until January 1, 1946, in counties of from two hundred thousand (200,000) to three hundred thousand (300,000) population.

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OFFICIAL OPINION NO. 70

July 23, 1945.

Hon. Clarence E. Ruston, State Examiner,  
State Board of Accounts,  
State House,  
Indianapolis, Indiana.

Dear Sir:

I have before me the letter of your predecessor, received June 27th, 1945, asking the following questions in regard to Chapter 322 of the Acts of 1945:

"1. Does the two year period allowed for redemption by Chapter 322, Acts of 1945, begin with the date of the bid by the county auditor for the county made under Chapter 224, Acts of 1941?

"2. Is the redemptioner making any redemption as authorized by Chapter 322, Acts of 1945, required to pay and discharge only the taxes entered upon the tax duplicate as a tax charge against the real estate being redeemed?

"3. If redemption is made after the issuance of a deed to the county what would be the proper procedure to eliminate from the record the transfer of title to the county?"

(1) The Act provides that a redemption may be made "at any time during the next two years ensuing, or April 15, 1946, whichever date is the later." I am of the opinion that this clause refers back to the words at the beginning of the section, where the Legislature is speaking of the bidding in of property by the county at tax sales. Otherwise, the words "or April 15, 1946, whichever date is the later" is meaningless as the two years after the enactment of the statute would expire March 8, 1947. It is not to be presumed that the Legislature inserted meaningless provisions and effect must be given to all words and provisions of the statute if at all possible.

State, *ex rel.* v. Board (1936) 211 Ind. 643, 646;  
 McQuaid v. State, *ex rel.* (1937) 211 Ind. 595,  
 600.

If the statute is interpreted as meaning the next two years ensuing after the bid by the county auditor, or April 15, 1946, whichever is later, then effect is given to all terms of the statute, but certainly the Legislature knew that this Act contained an emergency clause which would take effect in the early part of 1945, and that consequently two years ensuing after the effective date of the Act would in all cases extend far beyond April 15, 1946, and did not intend to put in a date that would be wholly inoperative.

Therefore, my answer to your first question is that in my opinion the two year period allowed for redemption by Chapter 322 of the Acts of 1945, begins with the date of the

bid by the county auditor made under Chapter 224 of the Acts of 1941.

(2) Section 2 of Chapter 224 of the Acts of 1941 as amended by Chapter 43, p. 97, Acts of 1943, (11 Burns' Ind. Statutes (1943 Replacement) Sec. 64-2203) contains the authority for the bidding in of real estate at delinquent tax sales by the county auditor. The pertinent provisions of that section are:

“\* \* \* Whenever any real estate has been or shall hereafter be advertised and offered for sale for delinquent taxes, by the county treasurer, for any two (2) years or more, and no person shall have bid therefor a sum equal to the delinquent taxes thereon, then all of such real estate as remains unsold on the first Monday of December of any year during which such real estate shall have been so offered for sale, shall, by the auditor of such county, on said Monday be bid in for such county for a sum equal to the amount of delinquent taxes, and costs thereon, *such sum to include any subsequently accrued delinquent taxes and penalties* but not to include liens for any improvement assessment against such real estate, and thereupon said county shall be entitled to and shall receive tax sale certificates and/or tax deeds in the same manner and with the same rights as any other purchaser at such sale except as herein otherwise provided. *Such real estate shall be held by such county in trust for all of the tax levying bodies that have levied and certified such taxes as their interest shall appear:* Provided, That when the same is bid in by the county auditor no money shall be paid by the county or other tax levying and tax certifying bodies for said purchase but each of the tax levying and tax certifying bodies having any interest in said general taxes for which said real estate is sold *shall be charged with the full amount of all the said delinquent and general taxes due said tax levying and tax certifying bodies, as its just share of the purchase-price: \* \* \**” (Our emphasis.)

Section 3 of the same act, as amended by Chapter 137, p. 407, of the Acts of 1943 (11 Burns' Indiana Statutes (1943 Re-

placement) Sec. 64-2205) provides for redemption from tax sale and the paragraph pertinent to the redemption where the land is bid in by the county is as follows:

“The original owner or occupant of any real estate sold as provided in sec. 260 of this act, or any other person or persons having an interest therein, may if the title to said real estate has been acquired by the county as provided in sec. 260 of this act, redeem the same at any time during the year next ensuing in the following manner:

“If redeemed within six (6) months from the Monday on which such auditor shall have bid in such real estate, such owner or redemptioner shall pay to the county treasurer for use of such tax levying bodies in proportion as their interest may appear, the full amount of the sum for which said land was so bid in, together with costs and five (5) per centum of such sum in addition; if redeemed after six (6) months and within (1) year, such owner, redemptioner or any lienholder shall pay in like manner the full amount of the sum for which said real estate was so bid in, together with costs and seven (7) per centum of such sum in addition, together with all taxes, interest and penalties that have subsequently accrued on such lands and were not included in such sums; Provided, however, That the owners or any other person having an interest in any real estate bid in for the county by the county auditor on the first Monday of December, 1942, may redeem the same at any time until April 15, 1945, and shall pay to the county treasurer for use of such tax levying bodies in proportion as their interest may appear the full amount of the sum for which said land was so bid in, together with costs and ten per centum of such sum in addition, notwithstanding any provision to the contrary herein contained.

“Whenever any county acquires title to any real estate under the provisions of this act, said county shall sell said real estate without unnecessary delay and such sales by such counties shall be in the same manner now provided by law for sales of lands owned by counties.

“The money received from said sale or transfer of title after the payment of cost shall be apportioned to the tax levying and tax certifying bodies in proportion to their interests in the taxes for which said real estate was sold based upon the several tax levies established by them for the year last preceding the sale, and if any surplus remain such surplus shall revert to the general fund of such county: Provided, That the provisions of this act shall not be deemed to repeal any of the provisions of chapter 153 of the acts of the 81st general assembly.”

Chapter 322 does not purport to amend this latter section, but merely makes a new provision for redemption. Of course if there be any irreconcilable conflict between the sections then Chapter 322 would be controlling. Section 1 of this act is as follows:

“In every case where lands have been bid in or title acquired and not disposed of by the county auditor for such county pursuant to the provisions of Chapter 224 of the Acts of the 82nd General Assembly and Chapters 43 and 137 of the 83rd General Assembly of the State of Indiana, and where such county has not effected further disposition thereof, to another, pursuant to law, the original owner or occupant of any such real estate or any other person or persons having an interest therein may redeem from such sale at any time during the next two years ensuing, or April 15, 1946, whichever date is the later, in the following manner: If redeemed not later than six months after such auditor shall have so bid in the same on behalf of the county, then by the payment to the county treasurer, for the use of such tax levying bodies in proportion as their interest may appear, the full amount of the sum for which said land was so bid in, together with the costs and five per centum of such sum for which the land was so bid in, in addition; and whenever redemption shall be effected after the expiration of six months, then the redemptioner shall pay, in addition to what he shall be required to pay on redemption for the first six months ensuing such bidding in,

one per centum on the amount for which said property was bid in, for each sixty days or fractional part of any sixty day period elapsing after the first six months to the date of such redemption. In all cases where lands are so redeemed, no certificate of redemption shall issue until and unless the redemptioner also pays and discharges all taxes which have accrued and become payable thereon after the auditor's bid on behalf of the county."

Section 2 declares an emergency and provides that the act be in full force and effect from and after its passage.

We call your attention to the fact that by the provisions emphasized in the first section above quoted, it is contemplated that the county hold such real estate in trust for the tax levying bodies and that in the operation of the trust the amount of the bid shall include any subsequently accrued delinquent taxes and penalties. These are to be paid by the county by charging them against the tax certifying bodies as their respective share of the purchase price. This clearly contemplates that the property shall remain upon the tax duplicate even after it has been bid in by the county and shall continue to be charged with taxes each year. Otherwise there could be no subsequently accrued general taxes to be charged against the redemptioner. If this has not been done then such property should be restored to the duplicate and the taxes charged as omitted property.

The Legislature certainly had in mind that the county held a defeasible interest subject to a redemption and that such redemption would annul the sale as of the date it was made,

State, *ex rel.* v. Sherill (1870), 34 Ind. 57, 59;  
 Goddard v. Renner (1877), 57 Ind. 532, 536;  
 Fletcher Avenue S. & L. Ass'n. v. Zeller (1940),  
 217 Ind. 244, 250,

and that under such circumstances even in the absence of specific statutory provision the property would be considered as having been owned by the redemptioner during the entire

period of time between the date of the bid and the date of the redemption, and that if the property was not annually charged with the taxes, the county auditor would upon redemption be required to put the taxes on the duplicate as omitted property. The provisions of Section 2 of Chapter 224 of the Acts of 1941 avoid the necessity of such retroactive action by requiring the redemptioner to pay such taxes at the time of the redemption.

Since this was required and contemplated by the law, the Legislature could presume that the county officials performed the acts required of them and when it spoke of taxes which have accrued and become payable after the auditor's bid, the General Assembly contemplated the annual taxes thereafter annually assessed against the real estate.

It is, therefore, my opinion that a redemptioner making any redemption under the provisions of Chapter 322 of the Acts of 1945 is required to pay and discharge the annual taxes accruing upon the property after the auditor's bid on behalf of the county. If the auditor has not heretofore entered such taxes upon the duplicate, he should immediately enter such taxes upon the duplicate as omitted property.

(3) The statute does not make any specific provision as to the method of redemption after the issuance of a deed to the county. However, Chapter 59 of the Acts of 1919, Section 282, p. 198 (11 Burns' Indiana Statutes (1943 Replacement) Sec. 64-2313) specifies the method of redemption. It is my opinion that such redemption annuls the sale and all deeds or other evidences of the sale as of the time the sale was made (see cases above cited) and that the record made by the auditor upon his books would sufficiently eliminate from the record the transfer of title to the county.