
October 22, 1943.

Hon. John W. Van Ness,  
State Senator,  
Valparaiso, Indiana:

Dear Senator Van Ness:

This will acknowledge receipt of your letter dated October 4th, 1943, which reads as follows:

"Will you please tell me the greatest amount that can be spent on any one ditch cleaning project under Chapter 314 of the 1943 Acts? Can the surveyor, by advertising, spend over two hundred dollars on one project?"

Answering your letter, I call your attention to the following language contained in Burns' 1943 Pocket Supplement, Section 27-239, which is Section 2 of Chapter 314, Acts 1943, which reads as follows:

"* * * Upon receipt of such notice, such surveyor may proceed immediately to have such drain repaired without advertising, letting a contract or contracts for the performance of the work, if the total cost of such repairs does not exceed two hundred dollars ($200) on any one ditch. When such ditch or drain is located in more than one county, the county surveyor of the county having the major portion of such drain shall perform the duties herein required and each county shall bear its proportionate share of the expense. The total cost of such work shall be paid from the general fund or funds of the county or counties in which such ditch or drains are located: Provided, however, the total amount expended for such purpose or purposes in any one county in any one calendar year shall not exceed the sum of five thousand dollars ($5,000)."

Section 27-240, which is Section 3 of Chapter 314, Acts 1943, reads in part as follows:
“* * * Any surveyor of any county in this state shall be, and is hereby authorized to repair any tile drain as described in section 1 (Sec. 27-238) of this act lying within his jurisdiction, at any time, upon notice of the necessity of such repairs, by any person or corporation interested. Upon receipt of such notice, such surveyor may proceed immediately to have such tile drains repaired without advertising, letting a contract or contracts for the performance of the work, if the total estimated cost of such repairs does not exceed one hundred dollars ($100). When such tile drain is located in more than one county, the county surveyor of the county having the major portion of such drain shall perform the duties herein required, and each county shall bear its proportionate share of the expense. The cost of any such repairs as herein provided for shall be paid out of the general fund of the county or counties within which such drain or drains shall lie: Provided, however, The total amount expended for such purpose in any one county shall not exceed five thousand dollars ($5,000) in any one calendar year: * * *.”

A careful reading of Section 27-239 discloses that it relates exclusively to the duty of the county surveyor to clean, repair and remove all obstructions of any open ditch or drain, other than open dredge ditches of court record, within his respective jurisdiction; while Section 27-240 relates exclusively to the duty of the county surveyor with reference to cleaning out, repairing and maintaining all tile drains having tile eight inches, or larger, in diameter, within the county.

It is a well settled rule of statutory construction that all of the words, phrases and sentences contained in a statute must be construed in relation to each other and as an entirety, in order to ascertain the intention of the Legislature in enacting the law, and if it is possible to ascertain the intention and purpose of the Legislature under such a rule of construction, the statute must be construed so as to give full force and effect to such purpose and intention.

Applying the above rules of construction to all of the language contained in Sections 2 and 3 of Chapter 314, Acts 1943,
being Burns' Pocket Supplement 1943, Section 27-239 and 27-240 respectively, it is my opinion that it was the purpose, object and intention of the Legislature in enacting Chapter 314 to provide that under the provisions of Section 2 of the Act the county surveyor could proceed to award a contract without advertising for the purpose of cleaning out and repairing any open ditch or drain other than open dredge ditches of court record, located within the county, provided the cost thereof does not exceed the sum of $200.00, and if the cost does exceed $200.00, then it is the duty of the county surveyor to proceed to clean out and repair such ditch or drain after advertising, as provided by the Act, and awarding a contract therefor, provided the total cost of such work to be paid from the general fund of the county does not exceed the sum of $5,000.00 in any one year, which amount may be spent on one or more ditches under the provisions of said section.

Further, it is my opinion that the same rule of construction applies to Section 3 of Chapter 314, which is Section 27-240, except that the contract may be awarded without advertising if the total estimated cost of repairs does not exceed $100.00, and if more than $100.00, the work must be advertised and a contract awarded and the maximum amount which may be spent under Section 3 is the sum of $5,000.00, and the same may be expended in the repair of one or more ditches the same as under the provisions of Section 2 of Chapter 314, Acts 1943, which is Section 27-239. I am unable to find any language in either Section 2 or 3 of Chapter 314, Acts 1943, which limits the amount to be spent upon any one ditch to either $200.00 or $100.00, and it is my opinion that such limitations apply only to the necessity and requirements of advertising the work.

Under the provisions of Chapter 314, Acts 1943, the cost of cleaning out and repairing all ditches and drains within the purview of the Act may be paid from the general fund of the county. In this connection it must be borne in mind that before such work is commenced or the contract therefor is awarded there must be a valid appropriation made by the county council. Section 4 of Chapter 314, Acts 1943, expressly provides that the Act shall be construed as being supplemental to Chapter 264 of the Acts of 1933 and to all Acts amendatory thereof, which are Burns' Sections 27-101 et seq.,
which provides that the cost of cleaning out and repairing ditches and drains may be made by assessment against the real estate benefited thereby.

Therefore, it is my opinion that in the enactment of Chapter 314, Acts 1943, the Legislature had in mind that the county council has the power and authority to limit the amount which may be spent upon the cleaning out and repairing of any one ditch by limiting the amount of money to be appropriated for such purpose and thereby requiring the work to be done under and pursuant to the provisions of Chapter 264, Acts 1933, and the amendatory Acts thereof.

STATE HOUSING BOARD: Liability of local authorities with respect to residents upon Federal Government owned lands within the state but which have not been ceded to the Federal Government.

October 30, 1943.

Mr. T. A. Moynahan, President,
State Housing Board of Indiana,
850 North Pennsylvania Street,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter in which you state that in several communities throughout the State of Indiana the United States Government has acquired land and developed certain Federal war housing projects, some of which projects being operated directly by the Government and the remainder leased to and operated by local housing authorities.

You further state that in each case the Government acquired in its name and owns the land and the projects, among which are those located in the City of Evansville and adjacent thereto; in Perry Township, Martin County, known as Burns City and Crane; in the City of Fort Wayne; in Union Township, LaPorte County, known as Kingsford Heights Project; and the Cities of Charlestown, New Albany, and South Bend.

You further state that the land for the majority of said projects was acquired by the United States Government under Public Law No. 849, 76th Congress, approved October 14,