

alized will go to the United States. Upon these facts immunity is claimed from taxation by a state."

Clallam County v. United States, 263 U. S. 341,
at page 344.

The court sustained the claimed immunity.

In my opinion, your question (1) should be answered in the affirmative.

Passing now to your question (3), I do not think it presents a legal question. Section 605b, *supra*, simply *authorizes* and *empowers* the Reconstruction Finance Corporation to make loans and contracts under the conditions set out and with the states and public agencies therein designated. That question, therefore, in my opinion, necessarily addresses itself to the sound judgment and discretion of the Reconstruction Finance Corporation.

ACCOUNTS, BOARD OF: Construction of chapter 250 of Acts of 1933 concerning "Flood Districts" as to who shall collect waived assessments.

June 12, 1933.

Hon. William P. Cosgrove,
State Examiner,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter referring to chapter 250 of the Acts of 1933 and submitting the following question:

"Does this amendment of 1933 make it the duty of the city treasurer as ex officio treasurer of the board to collect waived assessments or will the county treasurer continue to collect these assessments as certified to him by the county auditor?" (Sections 10822 and 10824 B. R. S. 1926.)

Chapter 250, *supra*, amends sections 8 and 11 of chapter 81 of the Acts of 1915 as said sections were amended by chapter 2 of the Acts of 1920 and also repeals section 49 of said chapter 81 of the Acts of 1915 as the same was amended by section 13 of chapter 2 of the Acts of 1920. The title of the original act of 1915, *supra*, as the same was amended in 1920, Acts of 1920, page 11, is as follows:

“An act to protect cities of the fourth and fifth classes, having a population of from ten thousand to fourteen thousand and adjacent towns, lands, highways and other properties within four miles of such cities from floods and inundation; to authorize the organization of flood control districts within and adjoining such cities, defining their powers, providing means to finance their operation, defining certain public offenses and imposing penalties and declaring an emergency.”

The 1933 act, *supra*, changes the personnel of the board which controls “flood districts” in such cases and provides that:

“The business of said corporation shall, except as otherwise provided in this act, be conducted by a board of three commissioners, which shall consist, ex officio, of the mayor, the clerk and the city engineer of such city, each of whom shall serve as such without additional compensation.”

Acts of 1933, page 1129.

Section 2 of the said act of 1933 provides in part as follows:

“The city treasurer shall be ex officio the treasurer of the board and shall make all collections of assessments and other funds which the board is required to collect, and shall receive as compensation for his service an amount equal to two per cent of the total amount as collected. The treasurer shall give bond in such amount and with such surety as the board may prescribe.”

In my opinion, the clear import of the above provision is to require the city treasurer in such cases, *instead of the county treasurer*, to collect the assessments referred to in your question. It is true that some ambiguity arises by reason of the above quoted provision from the act of 1933, *supra*; but, in view of the express repeal of section 49 of the original act as amended in 1920, which provides that:

“Before any duties devolve upon a county auditor or county treasurer under this act, the board of commissioners of the district shall consult them and agree upon

the salaries for the extra clerical force, if any, required in their respective offices to carry out the requirements of the law by reason of the establishment of said district and the said board of commissioners shall provide for and pay said salaries to said clerk or clerks, while engaged on the work of the district, which clerks shall be selected and appointed by each of said county officers for their respective offices,"

and provides further that:

"In case of disagreement as to compensation of such extra clerical force, the matter shall be referred to the court for its determination."

In view of the repeal of the above provisions, I think it is clear that the legislature intended by the 1933 enactment, *supra*, to take such collections out of the hands of the proper county treasurer and place them in the hands of the proper city treasurer.

**TEACHERS' RETIREMENT FUND BOARD: Appropriation
—whether board may exceed biennial appropriation.**

June 13, 1933.

Hon. Robert B. Hougham, Executive Secretary,
Indiana State Teachers' Retirement Fund Board,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter in which you state that the teachers' retirement fund board in its recent meeting on June 2, adopted the following resolution:

"That the executive secretary be empowered to cooperate with the state board of accounts in installing a new system of accounting with reference to payments from and to teacher members of the fund, and that the executive secretary shall arrange for the purchase of equipment necessary to put such system into operation. Said action to be taken as soon as possible."

You advise that in carrying out the above resolution, the additional necessary expense will in all probability exceed the 1933 appropriation for equipment and personal service. You