

chases they are charged with the duty to deposit and keep in their custody the securities so purchased, collecting only the interest and income therefrom as the same shall become due and payable.

When bonds mature they should be surrendered for payment, otherwise they become identified with the fund when purchased and should so remain.

Your second question, therefore, is answered in the negative.

ACCOUNTS, STATE BOARD OF: City sinking fund; interest on coupons.

July 28, 1937.

Hon. W. P. Cosgrove,
State Examiner,
State Board of Accounts,
Indianapolis, Indiana.

Dear Mr. Cosgrove:

This is in answer to your inquiry dated July 17th submitting the following question:

“Can interest coupons on bonds issued by a civil city be paid from the sinking fund of such city?”

Chapter 129 of the Acts of 1905 made provision for a sinking fund for the gradual payment of the indebtedness of a city. The common council is empowered to levy a tax which is to be applied to extinguishing the “bonded indebtedness of the city.” Section 24 of the Act provides that no money whatever shall be withdrawn from the sinking fund for any purpose other than the redemption of the “bonded indebtedness” of the city. The sinking fund is to be kept in certain designated depositories, and is under the control of commissioners.

Section 71 of the Act provides for meetings of the commissioners and how they shall proceed with their duties, and reads in part as follows.

“All questions relating to the designation of a depository, the payment of bonds *or interest*, or involving the payment or appropriation of money shall be decided by a viva voce vote,” * * *. (Our italics.)

Acts of 1905, p. 263.

Section 77 provides that in the event of the payment of city bonds, the warrant required "for the payment of such bonds, *with accrued interest and exchange,*" shall be drawn by the president upon the depository. (Our italics.)

It is my opinion that the word "interest," used in the above provisions of the law, refers to the payment of the coupons which is the interest on bonds. The interest coupons are as much of an indebtedness of the city, when due, as is the principal of the bonds.

Your question is, therefore, answered in the affirmative.

AUDITOR OF STATE: Procedure for refunds by State of taxes erroneously collected.

July 29, 1937.

Hon. Laurence F. Sullivan,
Auditor of State,
State House,
Indianapolis, Indiana.

Dear Mr. Sullivan:

I have before me your letter relative to the payment of a claim for a refund of taxes by David Posner, et al., of Lake County, Indiana. Accompanying your letter is a copy of a letter by the auditor of Lake County, reading in part as follows:

"On May 2, 1936, the Board of County Commissioners allowed a claim for refund to David Posner and 29 others in the amount of \$42,851.19. This claim was allowed after a Lake Superior Court judgment had been granted in that amount to the claimants.

"This claim for refund has been in the courts of Indiana since 1925. At the time the taxes were paid, action was taken against the treasurer to halt distribution of the money paid. However, the money was distributed in the settlement of that year. The Supreme Court of Indiana has finally held that the assessment was erroneous and a Lake Superior Court has granted judgment in the amount of the claim filed. This judgment is over a year old and last week the same court mandated me to pay same."