

never to have belonged to the decedent: Provided, however, That property jointly held shall not be taken to include real estate held by the entireties."

It will be noted that the above provision authorizes the submission of proof that the surviving joint owner or owners were in fact the owners of the property held in the joint names of themselves and the decedent and upon sufficient proof of such facts the transfer would not be taxable. However, in the absence of such proof, I think it is clear under the above quoted provision that the right to immediate possession of said property by the surviving joint owner or owners, however acquired, must be treated as a taxable transfer.

**ACCOUNTS, STATE BOARD OF: Prosecuting attorneys,
payment of expense for attendance at conference with
Attorney General.**

November 23, 1937.

Hon. William P. Cosgrove,
Chief Examiner,
State Board of Accounts,
State House,
Indianapolis, Indiana.

Dear Sir:

This will acknowledge receipt of your inquiry as to whether or not an appropriation by the county council is necessary before the payment of the expenses of the prosecuting attorney for attendance at the conference called by the Attorney General can be made from the general fund.

In reply to this question, your attention is directed to that portion of chapter 128 of the Acts of the Indiana General Assembly of 1937, which reads as follows:

"The expenses necessarily incurred by any such prosecuting attorney in attending any such conference, including the actual expense of transportation to and from the place where such conference is held, together with his meals and lodging, if there be any, shall be paid from the general fund of the county, upon the presentation of a duly itemized and verified claim,

filed as required by law, and by warrant issued by the county auditor."

It is apparent from this section above quoted that it was the intention of the legislature to authorize the payment of this particular item of expense without the necessity of setting up a specific item in the annual budget therefor.

However, chapter 110 of the Acts of the Indiana General Assembly of 1935 provides that:

"Appropriation by the county council shall not be necessary to authorize a warrant drawn and payment made out of the county treasury in the following instances, namely * * * or money which any statute expressly provides shall be paid for a purpose therein stated out of the county treasury without being first appropriated for such purpose by the county council. In all the above enumerated instances payment may be made out of the county treasury upon the authority and in the manner prescribed by law without appropriations by the county council."

It is my opinion that the Act of the Indiana General Assembly of 1937 above quoted is an express authority by the legislature and an express appropriation of money from the general fund of the county for the purpose of paying the expenses necessarily incurred by the prosecuting attorney in attending this conference.

It has been held in this state that the legislature has authority to require the expenditure of such public funds.

State el. rel. v. Meeker, 182 Ind. 240;

State ex. rel. v. Steinwedel, 180 N. E. 865.

Having apparently acted under this authority, it is my opinion that the expenses of the prosecuting attorney may be paid in the manner prescribed by the statute without an express appropriation therefor by the county council.