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FILE NO. S-488

TAXATION:
County Collector

Honorable Everett L. Laury
State's Attorney
Vermilion County
Courthouse
Danville, Illinois 61832

Dear Mr. Laury:

I have your recent letter wherein you state:

"The Treasurer and Ex-Officio Collector of Vermilion County has asked for an opinion as to his liability under Section 710 of Chapter 120 of the Illinois Revised Statutes if he is unable to make application for judgment for delinquent taxes in October of 1972. The problem arises because the county clerk was unable to extend the taxes until the multiplier was received which delayed the extension of the taxes so that bills for the first installment of taxes on real estate may not all be issued until August 1. In such case, the delinquency date for the first installment (as well as the second installment) will be September 1, 1972. The mechanical task of posting payments and making up the delinquency lists in order to supply such lists to the appropriate news-

papers in the county may be delayed so that the publication may not be completed until later than October 21. As the collector cannot apply for judgment until ten days after publication, this may delay the application for judgment to a date later than October 31, 1972.

Section 710 of Chapter 120 states: 'If for any cause the collector is prevented from advertising and obtaining judgment during the month of October, it shall be held to be legal to obtain judgment at any time thereafter; but if the failure arises by the county collector's not complying with any of the requirements of this Act, he shall be held on his official bond for the full amount of all taxes and special assessments charged against him; . . .'

We would appreciate your opinion on the above matter based on the facts set forth above."

Section 229 of the Revenue Act of 1939, (Ill. Rev. Stats., 1971, ch. 120, par. 710) provides, in part, as follows:

***If for any cause the collector is prevented from advertising and obtaining judgment during the month of October it shall be held to be legal to obtain judgment at any time thereafter; but if the failure arises by the county collector's not complying with any of the requirements of this Act, he shall be held on his official bond for the full amount of all taxes and special assessments charged against him: ***"

In seeking to give effect to the intention of the General Assembly courts are not controlled by the literal meaning

of the language used in the statute, but they must consider the spirit of the enactment and, if possible, construe the statute in accordance therewith, (Clare v. Bell, 378 Ill. 128; Hoyne v. Danisch, 264 Ill. 467; People ex rel Jackson and Morris v. Smuczynski, 345 Ill. App. 63). The rule of construction according to the spirit of the law is especially applicable where adhering to the letter would result in absurdity or defeat the purpose of the statute, (People ex rel Barrett v. Thillens, 400 Ill. 224). In adhering to this rule words may be modified or rejected and others substituted, (People ex rel Simpson v. Funkhouser, 385 Ill. 396.

In construing a statute to give effect to the legislative intent and purpose the court should, if possible, give it a sensible construction, Dubois v. Gibbons, 2 Ill. 2d 392.

In applying the foregoing legal principles to the facts which you have presented in your letter, it seems clear that under the provisions of Section 229 of the Revenue Act of 1939, the county collector should not be held liable on his bond if his failure to comply with the requirements of the Revenue Act arises from events beyond his control. It was not

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the county collector's fault that the county clerk was unable to extend taxes because there was a delay in receiving the multiplier. The statute must be interpreted in a sensible way. The collector should not be held liable on his official bond unless his failure to comply with the Act arises because of his own fault. I am, therefore, of the opinion that your treasurer and ex-officio county collector should not be held liable under the provisions of Section 229 of the Revenue Act of 1939 under the facts which you have presented in your letter.

Very truly yours,

A T T O R N E Y G E N E R A L