

TAXATION AND: Trustee appointed by County Court, under Section  
REVENUE : 9953b, purchasing lands for the tax funds, does  
not include trustees for private individuals.  
Sale by such trustee eliminates the city tax  
lien of City of Chillicothe for particular years  
involved.

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February 15, 1940.

Honorable Charles S. Greenwood  
Prosecuting Attorney  
Livingston County  
Chillicothe, Missouri



Dear Mr. Greenwood:

We desire to acknowledge your request for an opinion on February 13, 1940, which is as follows:

"I desire an opinion from your office concerning the effect of a delinquent tax sale under Section 9953a and 9953b, Session Acts, 1939, page 850.

"The County Court of this county has regularly sold certain real estate under the above sections for delinquent taxes while at the same time there were delinquent taxes against the same property due the City of Chillicothe. Does the purchaser of such real estate, whether he be a trustee for the County Court or a private individual take this property free from the liens of the City of Chillicothe taxes?

"Also, should the City of Chillicothe sell real estate under a delinquent tax lien, must the County protect its claim for taxes or does the lien for state and county taxes still hold? Thanking you for the courtesy of a prompt reply, I remain."

I.

Section 9953a, Laws of Missouri 1939, at page 851, is, in part, as follows:

" \* \* \* No certificate of purchase shall issue as to such sales but the purchaser at such sales shall be entitled to the immediate issuance and delivery of a collector's deed. \* \* \* "

Section 9953b, Laws of Missouri 1939, at page 851 is, in part, as follows:

"It shall be lawful for the County Court of any County, and the Comptroller, Mayor and President of the Board of Assessors of the City of St. Louis, to designate and appoint a suitable person or persons with discretionary authority to bid at all sales to which Section 9953a is applicable, and to purchase at such sales all lands or lots necessary to protect all taxes due and owing and prevent their loss to the taxing authorities involved from inadequate bids. Such person or persons so designated are hereby declared as to such purchases and as title holders pursuant to collector's deeds issued on such purchases, to be trustees for the benefit of all funds entitled to participate in the taxes against all such lands or lots so sold. \* \* \* All lands or lots so purchased shall be sold and deeds ordered executed and delivered by such trustees upon order of the County Court of the respective counties and the Comptroller, Mayor and President of the Board of

Assessors of the City of St. Louis, and the proceeds of such sales shall be applied, first, to the payment of the costs incurred and advanced, and the balance shall be distributed pro rata to the funds entitled to receive the taxes on the lands or lots so disposed of. \* \* \*  
(Underscoring ours)

Trustees appointed by the county court and the City of St. Louis, under the provisions of Section 9953b, supra, may bid on lands sold under the provisions of Section 9953a, supra, which provides for a final sale. The trustees bid in the land for the general county and state tax funds and sell the same upon order of county court. The proceeds of the sale by such trustee, after payment of costs incurred and advanced, are distributed pro rata to the funds.

General taxes constitute a paramount lien and a final sale, thereof, constitutes a foreclosure of Junior liens for the particular years involved. Trustees of deeds of trust and other private contracts, wherein a trustee is named or where by operation of law, trustees must be named by the court, are not within the purview of the above statutes.

The question of the priority of general tax liens was raised in the case of Meriwether vs. Overly, 228 Mo. 218, 250 and, in construing the status of a lien for general taxes on real estate, the court said:

"A tax against real estate is a tax against the property, and not against the owner. If the taxes have been legally assessed, they become a lien on the property prior to all other liens."

In Little River vs. Sheppard, 75 S. W. (2nd) 1013, 1014, the same principle was restated by the court, en banc, in the following language:

"The lien for state and county taxes shall be paramount."

Hon. Charles S. Greenwood

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February 15, 1940.

CONCLUSION

Therefore, it is the opinion of this department that a trustee appointed under the provisions of Section 9953b, supra, may purchase lands at a general tax sale, as trustee for the funds for which the sale was had, and that there may be no appointment of such trustee for a private individual under said statute. That a sale by the trustee appointed by the court, under order of court, conveys the title obtained by him under Section 9953a, supra, free from the tax liens of the City of Chillicothe for the particular years involved.

II.

ALSO, SHOULD THE CITY OF CHILLICOTHE SELL  
REAL ESTATE UNDER A DELINQUENT TAX LIEN,  
MUST THE COUNTY PROTECT ITS CLAIM FOR TAXES  
OR DOES THE LIEN FOR STATE AND COUNTY TAXES  
STILL HOLD? THANKING YOU FOR THE COURTESY  
OF A PROMPT REPLY, I REMAIN.

This question is answered in an opinion rendered by this department to Mr. Charles E. Murrell, Prosecuting Attorney of Adair County on September 26, 1939, a copy of which is enclosed herein.

Respectfully submitted,

S. V. MEDLING  
Assistant Attorney General

APPROVED:

W. J. BURKE  
(Acting) Attorney-General

SVM:LB  
Encl.