

TAXATION AND: County Court, by order, may have lands sold
REVENUE : under the provision of 9953b, Laws of Missouri
1939. If the sum realized from such sale is
in excess of the costs incurred and advanced,
the balance shall be distributed pro rata to
the funds entitled to receive the taxes on the
land.

December 19, 1939.

Honorable George B. Bridges
Prosecuting Attorney
Mississippi County
Charleston, Missouri



Dear Mr. Bridges:

We desire to acknowledge your inquiry of December 16, 1939, in regard to a construction of Section 9953b, Laws of Missouri 1939, at page 851, which is as follows:

"Under the recent law, the Mississippi County Court appointed Oscar Wise as their Trustee to buy in all property at the last tax sale, for the county where the full amount of taxes were not paid by some other purchaser. Certain property was bought in this method by the Trustee who thereafter had a chance to sell the same property to a third party for a sum higher than that paid by the county for the property.

"The Mississippi County Court has requested that I ask for your opinion as to whether or not the county is authorized to sell such property at a sum higher than that which they paid for it, and if so, into which fund should go the difference between the amount for which said property is sold and the sum paid therefor.

"I shall appreciate very much if you will give me an opinion on this matter."

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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)

In construing the powers of the legislature in passing a law and a legal presumption of its validity, the court, in the case of State ex inf. John T. Barker vs. Merchants Exchange, 269 Mo. 346, 356, the court held:

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" * * * It goes without the saying that there is a legal presumption of validity; that if there is doubt as to the constitutionality of the law the doubt shall be resolved in favor of the validity of the legislative act; that the expediency or in expediency of the act is not for the courts; that in Missouri the power of the Legislature to enact laws has no limitation, except the express limitations in the State and Federal Constitutions; * * * "

In State ex rel. Barrett vs. Boeckler Lumber Company, 301 Mo. 445, 532, in speaking whether a statute means what it says when it is plain and unambiguous, the Supreme Court, en banc, said:

"Nor is it within our province to give the statute any other meaning than its language imports. Our duty to apply the statute as it is written is as plain as the language of that statute and in that language there is no ambiguity. * * * "

CONCLUSION

Therefore, it is the opinion of this department that all lands so purchased, by the trustee, shall be sold and deeds ordered executed by such trustees upon the order of the county court and that the land may be sold for any sum, by such order of court, that the court may consider best for the protection of the interest of the funds without regard as to whether such sale price exceeds the taxes, penalties, interest and all costs or whether it may be for a sum less than the taxes, penalties, interest and all costs. It is, further, our opinion that the break down

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of said sale price is not to pay the costs and then all taxes, penalties and interest and if there be a surplus after the payment of such sums, to divide such surplus pro rata. The break down provided by Section 9953b, supra, is to, first, pay the costs and then divide and distribute balance pro rata to the funds entitled to receive the taxes on the lands.

Respectfully submitted,

APPROVED:

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SVM:LB