

At p. 504, the court said:

"The right to receive and pay out the amount of money on deposit to the persons for whom it was received was not personal to Gapen (former treasurer) but belonged to the treasurer of the board, and when Gapen's term of office expired the same passed to his successor and became vested in him. An assignment of the same was therefore unnecessary."

The money deposited in the bank by the deceased sheriff of Ross County, in his name as sheriff, constituted a trust fund and upon the death of the former sheriff and the appointment of his successor, the fund became subject to the check of the succeeding sheriff. All that would seem to be necessary for the protection of the bank would be the presentation to the bank of the new sheriff's credentials showing him to have been legally appointed and qualified as the sheriff of Ross County, no assignment or court being necessary, the fund having passed from the deceased sheriff at his death to his successor.

Respectfully,
JOHN W. BRICKER,
Attorney General.

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DELINQUENT TAXES—PENALTY ABATED UNDER AMENDED SENATE
BILL NO. 42 WHEN—REAL ESTATE TAXES—AMBIGUITY IN BILL
CITED.

SYLLABUS:

If a taxpayer, before the semi-annual settlement of real estate taxes for the first half of the tax year 1932, pays the taxes for the first half of such tax year, together with all previous taxes and assessments, the provisions of Am. S. B. No. 42, enacted by the 90th General Assembly, would authorize an abatement of the penalty on all delinquent taxes then paid.

COLUMBUS, OHIO, April 21, 1933.

HON. RAY B. WATTERS, *Prosecuting Attorney, Akron, Ohio.*

DEAR SIR:—Your recent request for opinion reads:

"I would appreciate your giving us your opinion on the new law in reference to the abatement of penalties on delinquent taxes, as set forth in Senate Bill 42. The question, specifically, is as follows:

In the event that a taxpayer pays the tax due and payable at the present collection together with all previous taxes and assessments, does the provision for the abatement of all penalties apply; it being understood that at present we are in the process of collecting the taxes for the first half of the year 1932?"

Your inquiry arises by reason of the language contained in the proviso in Section 1, of Am. S. B. 42, recently enacted. Such section reads:

"Any person, firm or corporation charged with or legally authorized to pay real property taxes and assessments which have become delinquent at or prior to the August settlement in the year 1932, may at any time prior to the February settlement in the year 1934, elect to pay the principal sum of such delinquent taxes and assessments as provided in this act, anything in the permanent statutes of this state to the contrary notwithstanding. Provided, however, that no such person shall be entitled to make such election unless all taxes, assessments and penalties for the year 1932 and/or the first half of the year 1933 then due and payable have been paid."

There is a clear ambiguity in the proviso of this section. Under the provisions of Section 2653, General Code, the entire taxes for the year 1932 are due and payable on or before December 20, 1932, but the taxpayer is entitled to pay one-half at that time and the remaining half on or before the 20th of June, 1933. The taxes on real estate for the year 1933 are not yet assessed. By reason of the fact that the proviso quoted above only requires taxes then due and payable to be paid, it is self-evident that the taxpayer at this time cannot be required to pay the taxes for the first half of the year 1933, which could not possibly be due and payable before being assessed. Such section does, however, contain an intimation that within the contemplation of the legislative intent the taxes are to be considered as due in semi-annual installments. Thus, Section 1 of such act speaks of the taxes for "the first half of the year 1933 then due and payable." Section 10 of such act also refers to the taxes being "charged" in "semi-annual installments."

There appears to be a general custom not only among ordinary taxpayers but also among real estate dealers and some lawyers, of referring to real estate taxes as becoming due and payable in two semi-annual installments. Such custom is, I believe, so general that a court should take judicial notice of such common and ordinary meaning of such phrase. An examination of the entire act would clearly indicate that the legislature has used the language with this meaning.

It is an established rule of statutory construction that the legislature, in the use of language, must be presumed to have used the terms it uses in their ordinary and generally accepted meaning. See 2, Sutherland's Statutory Construction, Section 389; *Smith vs. Buck*, 119 O. S. 101, 105; *Keifer vs. State*, 106 O. S. 285, 289. Furthermore, if a word has both a common and a technical meaning, the particular meaning is to be discovered from an examination of the entire act.

Specifically answering your inquiry it is my opinion that if a taxpayer, before the semi-annual settlement of real estate taxes for the first half of the tax year 1932, pays the taxes for the first half of such tax year, together with all previous taxes and assessments, the provisions of Am. S. B. No. 42, enacted by the 90th General Assembly, would authorize an abatement of the penalty on all delinquent taxes then paid.

Respectfully,
JOHN W. BRICKER,
Attorney General.