

6348.

DELINQUENT TAXES—NEWSPAPER AS DEFINED IN SEC. 5704-2, G. C., PERTAINS ONLY TO PUBLICATION OF NOTICES REFERRED TO IN SECTIONS 5694 AND 5704, G. C.

SYLLABUS:

The provisions of section 3 of Amended Senate Bill No. 466, of the first special session of the 91st General Assembly (section 5704-2, General Code) which provisions define the term "newspaper", have reference only to the publication of notices involving the subject-matter set forth in sections 5694 and 5704 of the General Code.

COLUMBUS, OHIO, November 15, 1936.

HON. HERMAN E. WERNER, *Prosecuting Attorney, Akron, Ohio.*

DEAR SIR: This acknowledges your letter of recent date asking whether or not the provisions of section 3 of Amended Senate Bill No. 466 of the first special session of the 91st General Assembly (section 5704-2, General Code) have reference to all notices of sheriffs' sales, foreclosures and otherwise, or merely to the types of tax sale notices as set forth in sections 5694 and 5704 of the General Code.

Amended Senate Bill No. 466, to which you refer, is entitled "AN ACT To amend sections 5694, 5704 and 5718 of the General Code, to further supplement section 5695 by the enactment of supplemental sections 5695-2, 5695-3 and 5695-4, *relative to the collection of delinquent personal and real property taxes* and to provide for the distribution of delinquent taxes when collected into the county treasury."

Section 5694, General Code, as amended by Amended Senate Bill 466, provides, in short, for the publication by the county auditor of the delinquent personal property and classified property tax list and duplicate. Also, section 5704, General Code, as amended, provides, in short, for the publication of delinquent land list and duplicate by the county auditor.

Section 3 of Amended Senate Bill 466 (section 5704-2, General Code), to which you refer in you letter, reads:

"As used in sections 5694 and 5704, as amended by this act, and in any other sections of the General Code, to which the same are applicable unless otherwise specifically defined therein, the term 'newspaper' shall be held to mean a publication bearing a title or name, published at a fixed place of business, regularly issued at fixed intervals as frequently as once a week and hav-

ing a second-class mailing privilege, being not less than four pages of five columns or more each; the primary function of such publication shall be to inform, instruct, enlighten and entertain, to which the general public as a whole will and does resort for intelligence of passing events of a political, religious, commercial and social nature, local and general current happenings, editorial comment, announcements, miscellaneous reading matter, advertisements and other notices; provided such a publication to be a newspaper of general circulation shall have been published at regular intervals continuously during a period of at least twenty-four months or as a direct legal successor of such publication issued during the immediate prior period of at least two years; circulated and distributed from an established place of business to subscribers or readers generally of all classes in the county or counties in which it is circulated, for a definite price or consideration for each copy or at a fixed price per annum the circulation of which is proven bona fide by at least fifty per cent thereof being paid for by regular subscribers or through recognized news dealers; and must publish an average of forty per cent news matter which has sufficient merit to have created a following of paid readers, to be a newspaper of general circulation."

From a close examination of the grammatical construction of the foregoing section it seems clear that the words "the same" in the third line relate back to the words "sections 5694 and 5704" in the first line, and thus the reading of the first portion of section 3 is in reality:

"As used in sections 5694 and 5704, as amended by this act (Am. S. B. 466), and in any other sections of the General Code to which the same (the subject matter of sections 5694 and 5704) are applicable * * *, the term 'newspaper' shall be held to mean," etc.

Such a construction of the foregoing section 3 is in line with the title of the aforementioned act, quoted above, which title, under section 16, Article II, Ohio Constitution, should disclose the subject of the bill. As noted in a preceding paragraph, the title of the act discloses the purpose of the act was to provide for the collection of delinquent personal and real property taxes, and thus the foregoing construction of the first portion of the section is harmonious with the title of the act.

Moreover, there is a principle of law that courts should, in construing a statute, seek for its reason and spirit in the mischief that required a

remedy and the general scope of the legislation designed to effect it. See *Tracy v. Card*, 2 O. S. 431; *Lape v. Lape*, 99 O. S. 143, 149.

Amended Senate Bill 466 was passed at a special session so that, under Article III, section 8, Ohio Constitution, only legislation could be taken up as the governor called for by special message.

On November 14, 1935, in message number 22, the governor opened up the subject of a tax program for the bringing in of revenue for political subdivisions of the state. Prior to the enactment of Senate Bill 466, it was a well known fact that there were countless delinquent taxes in the various counties that it was desired to collect, so as not to require unnecessary additional taxes. Amended Senate Bill 466 was enacted to stimulate the collection of this vast amount of delinquent taxes, and the construction of the subject matter of section 3 of the act should therefore have an interpretation that confines the meaning of such subject matter solely to the collection of delinquent taxes.

I am therefore of the opinion, in answer to your question, that the provisions of section 3 of Amended Senate Bill 466 (section 5704-2, General Code) do not refer to all sheriffs' sales, foreclosure and otherwise, but merely to tax sales as set forth in such amended Senate Bill No. 466.

Respectfully,

JOHN W. BRICKER,
Attorney General.

6349.

APPROVAL—BONDS OF QUAKER CITY, GUERNSEY COUNTY,
OHIO, \$10,000.00.

COLUMBUS, OHIO, November 16, 1936.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.

6350.

APPROVAL—BONDS OF MASSILLON CITY SCHOOL DIS-
TRICT, STARK COUNTY, OHIO, \$74,500.00.

COLUMBUS, OHIO, November 16, 1936.

Industrial Commission of Ohio, Columbus, Ohio.