

3958.

APPROVAL, CERTIFICATE OF INCORPORATION OF THE HOLY TRINITY
MUTUAL FIRE INSURANCE ASSOCIATION.

COLUMBUS, OHIO, February 21, 1935.

HON. GEORGE S. MYERS, *Secretary of State, Columbus, Ohio.*

DEAR SIR:—I have examined the certificate of incorporation of The Holy Trinity Mutual Fire Insurance Association, and finding the same not to be inconsistent with the Constitution or laws of the United States or of the State of Ohio, I have endorsed my approval thereon and I am herewith returning said certificate to you.

Respectfully,

JOHN W. BRICKER,

Attorney General.

3959.

MORTGAGE—FORECLOSURE PROCEEDINGS MAY BE HALTED BY REDEMPTION OF LANDS BY MORTGAGEE OR LIENHOLDER BEFORE CONFIRMATION OF SALE—AM. S. B. No. 105, SECOND SPECIAL SESSION OF 90TH GENERAL ASSEMBLY.

SYLLABUS:

When proceedings in foreclosure are instituted on delinquent lands, a mortgagee or other lienholder may, at any time prior to September 1, 1935, under the provisions of Amended Senate Bill No. 105 of the second special session of the 90th General Assembly, redeem such lands at any time before the confirmation of the sale thereof.

COLUMBUS, OHIO, February 23, 1935.

HON. LA MOINE HANDLEY, *Prosecuting Attorney, Carrollton, Ohio.*

DEAR SIR:—This will acknowledge receipt of your recent communication, which reads as follows:

“The County Auditor, Treasurer and myself wish your opinion as soon as possible, on the following question: When foreclosure proceedings have been started, petition filed, to collect delinquent taxes, assessments, penalties and interest, is it too late for any person, firm or corporation, whether judgment holders or mortgage holders, to come into the proceedings, under the Whittemore Bill and thus stop said foreclosure proceedings by the Prosecutor by paying under this Bill.

Will you please rush this answer, as we have this question on our hands involving a large sum of money.”

Section 1 of Amended Senate Bill No. 105 of the second special session of the 90th General Assembly, reads in part as follows:

“Any person, firm or corporation charged with or legally authorized or required by law or decree of court to pay real property taxes and assess-

ments which have become delinquent at or prior to the August settlement in the year 1934, or any person, firm or corporation holding a lien upon such real property may at any time prior to the first day of September in the year 1935 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 relating to the payment of real property taxes, assessments, penalties and interest thereon 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 1934 then due and payable have been paid."

Section 5724 of the General Code, which provides for the redemption of delinquent lands, reads as follows:

"All delinquent land upon which the taxes, assessments, penalty or interest have become delinquent, may be redeemed at any time before foreclosure proceedings thereon have been instituted, by tendering to the county treasurer the amount then due and unpaid."

It is noted that Amended Senate Bill No. 105, supra, provides that any person, firm or corporation holding a lien upon such real property may at any time prior to the first day of September in the year 1935 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 relating to the payment of real property taxes, assessments, penalties and interest thereon to the contrary notwithstanding.

In answering your question, it therefore becomes necessary to determine whether or not section 5724, General Code, supra, is a statute relating to the payment of real property taxes, assessments and penalties.

The purpose of the enactment of Amended Senate Bill No. 105, supra, which is a temporary emergency measure, is set out in section 5 thereof, as follows:

"That general economic conditions have made it impossible for many taxpayers to accumulate sufficient money to pay taxes and assessments charged on the real estate duplicate in semi-annual installments, as heretofore provided by law, whereby the amount and proportion of delinquent taxes and assessments have been greatly increased in substantially all the counties in this state, and the taxing districts entitled to share in the proceeds of such taxes and assessments have thereby suffered substantial failure in revenue, and have been curtailed and impaired in the performance of their necessary functions of government; so that it is immediately necessary to provide an inducement for the prompt payment of such taxes and assessments and a means whereby taxpayers can more conveniently discharge their public obligations with respect to the payment of such taxes and assessments, to the end that the amount of such delinquency may be quickly reduced. Therefore this act shall go into effect immediately."

While it is a general rule that statutes providing for exceptions to general laws must be strictly construed, it is likewise well settled that the letter of remedial statutes may be extended to include cases clearly within conditions they are intended to remedy. In the instant case the intent of the act is plain and should be carried into effect rather than be defeated by a most strict construction. While it may be said that the redemption of delinquent lands does not stand in direct relation to the payment of taxes, yet

the connection therewith is not so remote, so as to make such a construction of the act necessary as would defeat the obvious purpose thereof.

It is therefore my opinion that when proceedings in foreclosure are instituted on delinquent lands, a mortgagee or other lienholder may, at any time prior to September 1, 1935, under the provisions of Amended Senate Bill No. 105 of the second special session of the 90th General Assembly, redeem such lands at any time before the confirmation of the sale thereof.

Respectfully,

JOHN W. BRICKER,

Attorney General.

3960.

LEGISLATURE—MAY NOT PROHIBIT ELECTORS FROM VOTING ON BOND ISSUES OR TAX LEVIES OUTSIDE 10 MILL LIMITATION WHEN.

SYLLABUS:

The legislature has no power to prohibit electors from voting on bond issues or special tax levies outside of the limitation of section 2 of Article XII of the Constitution if they are not tax payers on the kind of property against which taxes are levied to meet the obligations created by such bonds or special tax levies.

COLUMBUS, OHIO, February 23, 1935.

HON. J. FREER BITTINGER, *Speaker of House of Representatives, Columbus, Ohio.*

DEAR SIR:—Amended House Resolution No. 31, recently adopted by the 91st General Assembly, reads as follows:

“Be it Resolved, That the attorney general of Ohio is hereby requested to render an opinion as to the constitutionality of a proposed bill, prohibiting electors from voting on bond issues or special tax levies, if they are not taxpayers, *on the kind of property against which taxes are levied to meet the obligations created by such bonds or special tax levies*, either at a general election, or at a special election called for the purpose of voting on bond issues or special tax levies.”

I assume that the inquiry contained in this resolution is confined to the levy of taxes and the issuance of bonds by subdivisions of the state as they are defined in section 2293-1, General Code, and that it does not refer to levies or issues by the state or by any special districts such as conservancy districts.

It is well settled that the right to vote is dependent upon constitutional or statutory grant. Subject to the limitations of the Federal Constitution, such right is under the control of the sovereign power of the state. Where this right is granted and the qualifications of electors are prescribed by the constitution of a state, the legislature cannot change or add to them, but when the constitution does not prescribe the qualifications then the legislature may do so.

In Volume 20 of *Corpus Juris*, at page 62, the following rule is stated: