

prevents him from canceling the receipt and making the taxes a charge against the land of the taxpayer, has been received.

The courts have considered phases of the question involved and seem to be in practical unanimity.

The general and doubtless the correct rule laid down by the authorities is this: The acceptance by the treasurer of a check on a bank for the amount of the drawer's taxes is at most only a conditional payment: that is, the taxes are not paid until the check is paid, and if it is dishonored the taxes remain a charge. (*Skinner v. Mitchell*, 197 Pac. 569; 37 Cyc. 1164 and notes in Supplements.)

As we view it the treasurer is to all intents and purposes in the position he would be in if he had not dealt with the taxpayer at all. We think, therefore, he has the undoubted right to cancel the returned tax receipt and to have his books show delinquency on the part of the taxpayer. The treasurer should and must have the power to make his records speak the truth.

Opinion No. 36

Taxation—Worthless Checks—County Treasurer—Tax Receipts, Cancellation of.

HELD: The acceptance by the county treasurer of a worthless check in payment of taxes and the issuance by him of a tax receipt does not constitute valid payment and does not prevent him from cancelling the receipt and making the taxes a charge against the land of the taxpayer.

January 21, 1933.

Your request for advice as to whether or not the acceptance by the county treasurer of your county of a worthless check in payment of taxes and the issuance by him of a tax receipt for the amount constitutes a valid payment and