acter of the notes which "A" proposes to sell, but I assume that they are negotiable. However, that may be, in either event the rights of "A" may be assigned and "B" is authorized to enforce the notes in accordance with their tenor.

I am, of course, not passing upon the question whether any usury exists in the transaction between "A" and "B". If the purported sale of the notes is merely a device by which "B" furnishes "A" money at a usurious rate of interest, a violation of the terms of the statutes hereinabove noted may exist, but this question is not before me.

You further inquire whether, in the event "B" purchases the notes, he may continue to collect interest on the same at a rate greater than eight per cent per annum. My previous discussion has also answered this inquiry, since "B" may lawfully succeed to all of the rights of "A" which necessarily includes the right to collect interest in accordance with the terms of the notes, although that may exceed the rate of eight per cent per annum.

Your next inquiry is as to what jurisdiction the Division of Securities has over anything which may transpire subsequent to the making of the original loan, provided the loan is not re-made. I assume that your reference to the loan means the loan from "A" to one of the borrowers. In other words, you inquire whether your department should interest itself in the subsequent transactions with relation to the evidences of indebtedness and collaterals taken by a licensee. If your question implies that the investigation of these subsequent transactions has any pertinency with respect to the legality of the original loans by the licensee, my answer must be in the negative. The whole tenor of the act is to protect the borrower in the securing of loans. Consequently, if the original loans are in all respects within the law, anything transpiring thereafter, which in no way affects the obligation of the borrower, is of no materiality. On the other hand, if in your investigation of the affairs of licensees it develops that the licensees themselves are securing money at usurious rates for the purpose of their business, I believe it would be the duty of the Division of Securities to enforce the law with respect thereto. For example, in the instance you have set forth, if "A" is being forced to pay usurious interest by "B", and "B" is not a bank and, as such exempt from the provisions of the act by Section 6346-5, supra, then I conceive it to be the duty of the Division of Securities to take such steps as may be necessary to see that the unlawful practice is discontinued.

Respectfully,
EDWARD C. TURNER,
Attorney General.

2274.

BUILDING AND LOAN ASSOCIATIONS—INVESTMENT OF IDLE FUNDS.

SYLLABUS:

Building and loan associations may invest their idle funds in the classes of securities accepted by the United States to secure government deposits in national banks and postal savings deposits in national and state banks, at the market value of such securities, regardless of the rates at which such securities are accepted by the federal government as collateral security for such deposits.

COLUMBUS, OHIO, June 25, 1928.

HON. J. W. TANNEHILL, *Superintendent, Division of Building and Loan Associations, Columbus, Ohio.*

DEAR SIR:—This will acknowledge the receipt of your recent communication requesting my opinion, and which reads as follows:

> "We acknowledge receipt of your opinion No. 2240 rendered to this department under date of June 18, 1928.
>
> Will you please advise whether the correct interpretation of this opinion is that building and loan associations may invest *at par, or market value if above par,* in bonds of the classes named in Treasury Department circular No. 176, paragraph 31, and in bonds named in Regulations of the Board of Trustees of the Postal Savings System, paragraph 8, notwithstanding the fact that the provisions of the sections referred to limit the acceptance of these bonds as collateral security to the market value thereof (not exceeding par) and in other cases to 90%, 80% or 75% of the market value as the case may be, or are investments of the kinds in question limited to those bonds which are accepted at par by the United States government?"

Without quoting from paragraph 31 of Treasury Department Circular No. 176, and from paragraph 8 of the Regulations of the Board of Trustees of the Postal Savings System, both of which are quite lengthy, it is sufficient to say that for purposes of collateral security certain bonds of the United States, Philippine Islands, District of Columbia, Porto Rico, Federal Land Banks and the War Finance Corporation are accepted to secure government deposits in national banks and postal savings deposits in national and state banks at par, certain other bonds are accepted at their market value, unless the market value is above par, in which event they are accepted at their par value, while bonds of certain cities, counties, villages, etc., are accepted at 90, 80 or 75%, respectively, of their market value, unless the market value is above par, in which event they are accepted at 90, 80 or 75%, respectively, of their par value.

The power granted to building and loan associations in Section 9660, General Code, to invest idle funds "in such other securities as now are or hereafter may be accepted by the United States to secure government deposits in national banks" is not limited in any way other than that such investments at no time shall amount in the aggregate to more than twenty per cent of the assets of the corporation. There is no provision that in purchasing or in investing in such securities, building and loan associations are limited to the same rates at which the securities are accepted by the government to secure the deposit of government funds. That is to say, there is no provision in Section 9660, General Code, to the effect that building and loan associations in investing their idle funds in the securities referred to shall pay for such securities only at the rates at which they are accepted to secure deposits of government funds. The power to invest in certain securities is entirely different from the power to accept such securities as collateral.

Section 9657, General Code, which authorizes building and loan associations to make loans to members and others, upon such terms and conditions as may be provided by the association, authorizes that such loans may be made upon obligations secured by pledge of any of the securities provided for in Section 9660, General Code, not to exceed, however, ten per cent of the assets of the association. This section authorizes building and loan associations to prescribe the terms and conditions under which such loans shall be made. Clearly, building and loan associations have the power, under Section 9657, General Code, to prescribe that when loans

are made, secured by pledge of the securities mentioned in Section 9660, General Code, the amount of such securities to be pledged shall be equal in par or market value or shall be double the amount of the loan. Obviously, therefore, the rates at which certain securities are accepted as collateral security in no way affect the rates at which building and loan associations may invest their funds in such securities.

In view of the foregoing, it is my opinion that building and loan associations may invest their idle funds in the classes of securities accepted by the United States to secure government deposits in national banks and postal savings deposits in national and state banks, at the market value of such securities, regardless of the rates at which such securities are accepted by the federal government as collateral security for such deposits.

In your communication you ask whether building and loan associations may invest *at par, or market value if above par,* in the securities above referred to. In order not to be misunderstood, I wish to advise you that in making such investments building and loan associations should be guided by the market value of the securities and not by the par value. In other words, the power to invest carries with it the power to invest at the market value and although certain bonds may be accepted by the United States for collateral security purposes at par, if the market price happens to be below par, building and loan associations are not required to pay par for such securities, but should purchase the same at their market value.

Respectfully,
EDWARD C. TURNER,
Attorney General.

2275.

ROADS — IMPROVEMENT — CONDEMNATION PENDING BEFORE EFFECTIVE DATE OF NORTON-EDWARDS ACT, DISCUSSED

SYLLABUS:

Where proceedings for the improvement of an inter-county highway were instituted and the county commissioners have proceeded to determine the amount of compensation for land appropriated, together with damages to the residue, prior to January 2, 1928, *the effective date of the Norton-Edwards act, such proceedings may be completed in the manner prescribed by Section* 1201 *of the Code prior to its amendment, including the proceedings on appeal to the probate court.*

COLUMBUS, OHIO, June 25, 1928.

HON. C. O. TURNER, *Prosecuting Attorney, Coshocton, Ohio.*

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

> "In the year 1927 it was determined to improve a certain inter-county highway leading from Coshocton, Ohio, to Millersburg, Ohio. The portion of said highway herein involved is I. C. H. No. 343, Sec. C, which passes through lands in Mill Creek Township, Coshocton County, Ohio, and owned by Clarence Patterson and Etta Patterson.