

The fifth question is also covered in part by some of the discussion in the first opinion above referred to, enclosed herewith. In that opinion it is stated that the special fees for probate judges provided for in the new law are intended to compensate such judges for all services rendered by them in any capacity in connection with the determination of inheritance taxes. Therefore, and though the section does not specifically recite that such fees shall be receivable in lieu of any other fees to which the judge might have been entitled under the general provisions relating to the fees of probate judges, it is the opinion of this department that no such other fees may be drawn by a judge entitled to draw these new fees. This is so because the fee under the new law is expressly to be "for services performed by him (the probate judge) under the provisions of this chapter." This means that the fee attaches to any and all services of that character. It could not have been the intention of the legislature to authorize the taxation and collection of two fees for the same services. The principle to be applied is that the provisions of the new section 5348-10a constitute a special rule in regard to compensation for services in inheritance tax cases, and become an exception to the general provisions of the sections regulating the fees of probate judges as judicial and clerical officers. The fifth question is therefore to be answered in the negative.

Respectfully,
 JOHN G. PRICE,
Attorney-General.

2570.

BUILDING AND LOAN ASSOCIATIONS—GUARDIAN MAY NOT INVEST FUNDS OF HIS WARD IN CERTIFICATES OF DEPOSIT IN BUILDING AND LOAN ASSOCIATIONS.

A guardian subject to the control of an Ohio court may not invest the funds of his ward in a certificate of deposit in a building and loan association.

COLUMBUS, OHIO, November 14, 1921.

HON. HARRY G. GRAM, *Probate Judge, Springfield, Ohio.*

DEAR SIR:—You request the opinion of this department upon the following question:

May a guardian lawfully invest funds belonging to his ward in a certificate of deposit in a building and loan association organized under the laws of Ohio?

Authority to make such investment is claimed under section 9648 of the General Code, which, with the preceding section, which must be quoted in order to complete the sense, is as follows:

"Sec. 9647. Such corporation shall have all the powers set forth in the following sections of this chapter."

"Sec. 9648. To receive money on deposits, and all persons, firms, corporations and courts, their agents, officers and appointees may make such deposits and stock deposits, but such corporation shall not pay interest thereon exceeding the legal rate. * * *"

The section which purports to govern the investments of guardians, as such, is section 10933 G. C., which provides in part as follows:

"Sec. 10933. The following are the duties of every guardian appointed to have the custody and take charge of the estate of a minor:

* * * * *

7. Within a reasonable time after he receives it, to loan or invest the money of his ward, in notes or bonds, secured by first mortgage on real estate of at least double the value of the money loaned or invested. The buildings thereon, if any, must be well insured against loss by fire and so kept by the mortgagor for the benefit of the mortgagee, until the debt is paid. On failure so to do, the mortgagee shall insure them and the expense to him be repaid by the mortgagor and be a lien on the property concurrent with the mortgage. Or he may invest such money in bonds of the United States, or of a state on which default has never been made in the payment of interest, or bonds of a county or city in this state, issued in conformity to law; or with the approval of the probate court, in productive real estate within this state, the title to which must be taken in the name of the ward. He also shall manage such investments and when deemed proper, change them into other investments of the above classes. No real estate so purchased shall be sold by the guardian, except with the approval of the probate court. If the guardian fails to loan or invest money of his ward within such reasonable time, he must account on settlement for such money and interest thereon, calculated with annual rents; * * *."

The paragraph above quoted was amended in 108 Ohio Laws, Part I, p. 366, so as to require title to purchased real estate to be taken in the name of the ward. Formerly the section required such title to be taken in the name of the "guardian as such."

In the opinion of this department, a guardian subject to the control of an Ohio court may not invest the funds of his ward in a certificate of deposit in a building and loan association.

Several reasons may be stated in support of this conclusion, each of them, in the opinion of this department, equally strong in that direction.

First, section 9648 G. C. cannot be construed as a grant of power to any one excepting building and loan associations; it purports to be one of a group of sections setting forth powers of building and loan associations; it authorizes *the receipt by the building and loan association* of a deposit from any person, firm, corporation * * court, their agents, officers and appointees," but it does not authorize a corporation or court, or the agent, officer or appointee of either, not otherwise authorized by law to make such deposit, to do so. That is to say, the section has not that natural significance, and to give it the force of a grant of power of such sweeping character would be to strain the words used beyond their natural meaning.

In the second place, even if section 9648 G. C. be interpreted as a general grant of power to corporations and courts, not otherwise authorized to do so, to make deposits in building and loan associations, yet it is general and section 10933, specifically governing the investments of guardians, is particular. The familiar rule is that where there is a conflict between a general provision and a particular one, the particular one governs regardless of the order of their enactment. It is very clear from a reading of paragraph 7 of section 10933 that the grant of power therein made is intended to be exclusive.

In the third place, section 10933 is of later enactment than section 9648, and the established rule is that in case of conflict between two sections the one last enacted in point of time must prevail. That there is conflict follows from the conclusion last above expressed, which is that paragraph 7 of section 10933 is intended to be exclusive.

Respectfully,
 JOHN G. PRICE,
Attorney-General.

2571.

APPROVAL, BONDS OF CITY OF SPRINGFIELD, OHIO, IN AMOUNT OF \$10,642.50 FOR CONSTRUCTION OF SEWERS.

COLUMBUS, OHIO, November 14, 1921.

Department of Industrial Relations, Industrial Commission of Ohio, Columbus, Ohio.

2572.

APPROVAL, BONDS OF BARBERTON CITY SCHOOL DISTRICT, SUMMIT COUNTY, OHIO, IN AMOUNT OF \$59,000.

COLUMBUS, OHIO, November 14, 1921.

Department of Industrial Relations, Industrial Commission of Ohio, Columbus, Ohio.

2573.

DISAPPROVAL, DEFICIENCY BONDS, HOLLOWAY VILLAGE SCHOOL DISTRICT, BELMONT COUNTY, OHIO, IN AMOUNT OF \$7,385.

COLUMBUS, OHIO, November 14, 1921.

Department of Industrial Relations, Industrial Commission of Ohio, Columbus, Ohio.

Re: Deficiency bonds, Holloway Village School District, Belmont county, Ohio, in the amount of \$7,385, being 1 bond of \$385 and 7 bonds of \$1,000 each—6 per cent.

GENTLEMEN:—It appears from the transcript that the bonds above indicated were issued under authority of House Bill No. 254, passed by the last general assembly for the purpose of funding deficiencies. Sections 2 and 3 of said act are as follows:

“Section 2. The board of education of a subdivision by resolution, may direct the clerk of the subdivision to make up a financial state-