

1. The taxes on said property for the last half of the year 1929, amounting to the sum of \$201.82, and which were due and payable in June, 1930, are unpaid and are a lien upon the property, as are the undetermined taxes for the year 1930.

2. There is a balance of \$79.89 remaining due upon the assessment for the improvement of Front Street; of this balance the sum of \$39.95 is due and payable in December, 1930.

There is an assessment in the sum of \$162.74 against this property for the installation of the lighting improvement on Front Street; of this assessment the first half of the first installment thereof, amounting to the sum of \$16.27 was due in June, 1930.

I have examined the warranty deed tendered by Horace D. Vail conveying the above described property and find that the same has been legally and properly executed and acknowledged by him and by said Ella Vail and Geraldine Vail. I further find that as to the form of said deed, it is sufficient to convey said property to the State of Ohio by fee simple title free and clear of the respective dower interests of said Ella Vail and Geraldine Vail and free and clear of all encumbrances whatsoever, except the taxes and assessments payable in June, 1930 and thereafter.

Upon examination of encumbrance estimate No. 633, relating to the purchase of the above described property, I find that the same has been properly executed and approved and it is shown thereby that there are sufficient balances in the proper appropriation account to pay the purchase price of the above described property, which is the sum of \$31,204.00.

I am herewith forwarding to you with my approval said abstract of title, warranty deed and encumbrance estimate No. 633.

Respectfully,

GILBERT BETTMAN,
Attorney General.

2191.

BUILDING AND LOAN ASSOCIATIONS—OMISSION OF FEES DEPENDS
UPON FUNDS AVAILABLE TO STATE DIVISION ON JANUARY THE
FIRST OF EACH YEAR— OPINION 2028 MODIFIED.

SYLLABUS:

The determination with respect to the omission of fees from building and loan associations should be made in the light of the funds available for the operation of the Division of Building and Loan Associations at the close of its fiscal year, which is from January 1st to December 31st.

(Opinion No. 2028 modified accordingly).

COLUMBUS, OHIO, August 2, 1930.

HON. ED. D. SCHORR, *Director of Commerce, Columbus, Ohio.*

DEAR SIR:—In a recent letter to me with reference to Opinion No. 2028, dated June 25, 1930, from the Superintendent of the Division of Building and Loan Associations, it is suggested that, in view of the provisions of Section 260-1 of the General Code, the omission of the fees from building and loan associations should be for the fiscal year, which is now coincident with the calendar year rather than from June 30th, as stated in the opinion. I am asked to give further consideration to this aspect of your original question.

I may say that my original conclusion was not reached without a consideration of Section 260-1, but it is perhaps true that the entire significance of the broad language of that section escaped me. It provides as follows:

“Beginning with January 1, 1928, the fiscal year of the state and beginning with January 1, 1926, the fiscal year of every county, municipal corporation, including charter municipalities, school district, township or other political subdivision or taxing district, and of every officer, department, commission, board or institution thereof, shall begin at the opening of the first day of January of each calendar year and end at the close of the succeeding thirty-first day of December. All provisions of law heretofore or hereafter enacted and relating to the levying of taxes, the collection, appropriation or expenditure of revenues or the making of financial reports or statements for a fiscal year or other year shall be construed to refer and apply to the fiscal year as herein defined, except that required by Title V, chapter 5, part second, of the General Code, shall be for the school year as defined in Section 7689 of the General Code.

Taxes or other revenues collected in or on hand in any fiscal year for the purposes of the next or any subsequent fiscal year shall not be appropriated or expended prior to such next or subsequent year. Budgets shall be designated and known by the fiscal year for the purposes for which they are made.”

The second sentence of the section makes it clear that any provision of law relating to the collection of revenues or the making of financial reports or statements for either a fiscal year or other year, is to be construed as referable to a fiscal year beginning on January 1st of the calendar year and closing on the 31st of December next succeeding. It remains only to determine whether this section is applicable to the provisions of Section 691 of the Code.

In reference to the omission of fees, that section provides as follows:

“In any year when in the opinion of the superintendent of building and loan associations the amount of such fund on hand at the close of business, June 30, is sufficient for maintaining the department of building and loan associations for the ensuing year, then the fees provided for in this section to be paid at the time of the filing of annual reports shall be omitted for such year.”

Quite obviously the determination of whether the fee shall be omitted is dependent upon the financial condition of the division of building and loan associations at the close of a business or fiscal year. While a specific date, June 30th, is mentioned, it is significant that this statute is earlier in point of enactment than the comprehensive provisions of Section 260-1, supra. At the time Section 691 was enacted, the fiscal year of state departments was July 1st to the succeeding June 30th. Apparently the legislature clearly intended that the omission of the fee should be for the fiscal year of the department and not for portions of two fiscal years.

In view of what I have said, I am inclined to the opinion that the later and comprehensive provisions of Section 260-1 are controlling and must be read into the provisions of Section 691, and accordingly the determination with respect to the omission of fees should be made in view of the financial status of the division of building and loan associations at the close of its fiscal year, which is December 31st.

The conclusion of Opinion No. 2028 is to be regarded as modified in accordance with these views.

Respectfully,
GILBERT BETTMAN,
Attorney General.

2192.

APPROVAL, ABSTRACT OF TITLE TO LAND OF HESTER A. MARTIN
AND WILLIAM P. MARTIN IN NILE TOWNSHIP, SCIOTO COUNTY,
OHIO.

COLUMBUS, OHIO, August 2, 1930.

HON. CARL E. STEEB, *Secretary, Ohio Agricultural Experiment Station, Ohio State University, Columbus, Ohio.*

DEAR SIR:—This is to acknowledge receipt of your recent communication submitting for my examination and approval abstract of title, warranty deed, encumbrance estimate No. 137 and controlling board certificate relating to the proposed purchase by the State of Ohio of a tract of land in Nile Township, Scioto County, Ohio, which is more particularly described as follows:

“Beginning at stone marked “C” with a black oak, chestnut oak and a hickory witness trees, southeast corner of Lot Number Thirteen (13) in the west line of Lot Number Twelve (12); thence west along the south line of Lot Number Thirteen (13) three hundred and twenty-four (324) poles crossing the south fork of Pond Run at two hundred and fifty-eight (258) poles to a stone marked “F” in line Survey No. 15881; thence with one line thereof south forty-nine and thirty-nine one hundredths (49.39) poles to a stake in said line; thence east three hundred and twenty-four (324) poles crossing South Fork to a stone in the line of Lot Number Fifteen (15); thence with west line of Lot Number Fifteen (15) and Twelve (12) forty-nine and thirty-nine one hundredths (49.39) poles to the beginning, containing one hundred (100) acres, more or less, and being part of O. S. U. Lot Number Fourteen (14).

Being the same property conveyed to grantors herein, by C. E. Robbins recorded in Deed Book No. 191, page 143, Scioto County, Ohio Records, April 29, 1930.”

Upon examination of said abstract of title, which is certified under date of June 28, 1930, I find that Hester A. Martin and William P. Martin, who are the owners of record of the above described property, have a good merchantable title to the same, subject only to the lien of the taxes on said property for the year 1930, the amount of which taxes are as yet undetermined.

The warranty deed which has been tendered by said Hester A. Martin and William P. Martin has been properly executed and acknowledged by them and that same as to form is sufficient to convey the above described property to the State of Ohio by a fee simple title free and clear of the respective dower interests of each of the above named grantors in the undivided interest in the property owned and held by the other, and free and clear of all encumbrances whatever.

Upon examination of encumbrance estimate No. 137, I find that three copies of the same have been properly executed and approved, and that there is shown thereby