Bearing in mind this fact, that is, that the *power to loan and the power to invest funds of a bank are distinct,* and referring again to the sections quoted above, it will be seen that section 9757 gives the power, among other powers, to commercial banks to loan money on personal security, and to invest in promissory notes and other evidences of indebtedness. Section 9758 gives the power to commercial banks to invest their capital, surplus and deposits in, and to loan them upon, certain specified securities, or evidences of indebtedness. Sections 9754 and 9790 provide the limitations upon the exercise of the powers granted by sections 9757 and 9758, section 9754 providing the limitation of 20% as to all loans and section 9790 the same limitation of 20% as to all investments, except those mentioned in paragraphs b, c and d of section 9758." (Italics the writer's.)

I am of the view that the statutory changes since the rendition of that opinion are not material to the present question.

Section 710-111 designates legal investments for banks. Section 710-108 concerns investments in real estate. Section 710-112 relates to both loans and investments, and preserves the distinction between the two. Section 710-121 places a limitation upon investments, while section 710-122 imposes a restriction upon loans. Thus, in the light of the former opinion, I am of the view that Section 710-122 does not limit investments.

Specifically answering your inquiry, it is my opinion that statutes of this state impose no limitation upon the amount of bonds issued under the Home Owners' Loan Act of 1933, which a bank, incorporated under the laws of Ohio, may acquire by the exchange of mortgages.

Respectfully,
JOHN W. BRICKER,
Attorney General.

2216.

METROPOLITAN PARK DISTRICT—MEMBERSHIP OR GREEN FEES CHARGED ON GOLF COURSES OPERATED THEREBY SUBJECT TO TAX LEVIED BY SECTION 5544-2, GENERAL CODE.

SYLLABUS:

When a metropolitan park district operates one or more golf courses and charges membership or green fees, such fees are subject to the tax levied by Section 5544-2, General Code.

COLUMBUS, OHIO, January 25, 1934.

Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

GENTLEMEN:—This will acknowledge receipt of your request for my opinion, which reads as follows:

"Amended Senate Bill No. 411, paragraph 6, provides for a tax of five per centum of the amount of membership dues of every club or

organization maintaining a golf course, and a tax of ten per centum on green fees collected on golf courses, either under a club or private ownership. Section 3 of this Act provides for certain exemptions.

Question: Does the provision of five percent on membership dues, and ten per cent on green fees apply to a Metropolitan Park District operating one or more golf courses?"

Amended Senate Bill No. 411 of the 90th General Assembly, paragraph 6, referred to in your inquiry, is now Section 5544-2, General Code. Such section, as contained in House Bill No. 7, as re-enacted by the first special session of the 90th General Assembly, in so far as is material to your inquiry, reads:

"A tax of five per centum of the amount of annual membership dues in every club or organization maintaining a golf course and a tax of ten per centum on green fees collected by golf courses either under club or private ownership."

The exemptions from such tax are contained in Section 5544-3, General Code, as so enacted. In so far as might be material to your inquiry, such section reads:

"No tax shall be levied under this act with respect to:

(1) Any admissions, all the proceeds of which inure.

(a) Exclusively to the benefit of * * * societies or organizations, conducted for the sole purpose * * * of improving any municipal corporation, * * * —if no part of the net earnings thereof inures to the benefit of any private stockholder or individual; * * *"

Is a metropolitan park district a society or organization conducted solely for the purpose of improving any municipal corporation?

The purpose of a so-called "metropolitan park district" is set forth in Section 2976-1, General Code, as follows:

"In order to encourage forestry, to provide for converting into forest reserves lands acquired for that purpose and to provide for the conservation of the natural resources of the state, including streams, lakes, submerged and swamp lands, park districts may be created as herein provided. Such park districts may include all or a part only of the territory within a county, and the boundary lines thereof shall be so drawn as not to divide any existing township or municipality within such county."

Section 2976-10d, General Code, further authorizes the annexation of territory adjacent to a park district whether within or without the county, to such park district.

The language of the exception clause of the admission tax statute (§5544-3a, G. C.) is specific in that the association or organization must be conducted for the *sole* purpose of improving *any* municipal corporation.

From the language of Section 2976-1, General Code, it would appear that the chief purpose of any park district is to conserve the natural resources of the state. Some of such resources may have aesthetic properties and some may not. I find

no language of such act which would indicate that the purpose is to render such natural resources more beautiful; the purpose is one of conservation and not of beautification.

There is yet another consideration in the organization of such districts which would indicate that it was not the intent of the legislature to exclude them from the operation of the tax. From an examination of such act it would appear that the territory being conserved is not defined by the limits of any municipal corporation. Within the boundaries may be included one or more municipal corporations as well as lands without all municipal corporations, as in the case of The Cleveland Metropolitan Park District in which the lands forming the park include lands in several municipal corporations as well as lands lying in townships outside of municipal corporations.

In the interpretation of statutes, where the general provisions of the act are broad enough to include all subjects within their purview, the provisions purporting to exempt certain things from their operation should be strictly construed. Black on Interpretation of Laws, §108; *State ex rel. Keller* vs. *Forney,* 108 O. S. 463, 467; *Jones* vs. *Crosswell,* 60 Fed. 2d., 827. That is, if the particular subject is not clearly exempted by the language of the exception clause, it must be held to be included within the general provisions. See *State ex rel. Keller* vs. *Forney, supra.*

This rule is all the more applicable to the interpretation of tax statutes, for it is to be presumed that all property is to share equally the burdens of taxation unless the language of the statute clearly requires a different interpretation.

Specifically answering your inquiry, it is my opinion that when a metropolitan park district operates one or more golf courses, and charges membership or green fees, such fees are subject to the tax levied by Section 5544-2, General Code.

Respectfully,
JOHN W. BRICKER,
Attorney General.

2217.

COUNTY COMMISSIONERS—UNAUTHORIZED TO ACCEPT MORTGAGES AS SECURITY FOR RETURN OF MONEYS DEPOSITED IN DEPOSITORY BANK WHEN.

SYLLABUS:

Section 2288-1, *General Code, does not authorize boards of county commissioners to accept mortgages executed by a depository bank, as mortgagor, on property owned by the bank, as security for the return of moneys deposited in such depository, even though the recited consideration in such mortgage and the penal sum thereof, is less than one-half of the appraised value of the mortgaged property.*

COLUMBUS, OHIO, January 25, 1934.

HON. LAWRENCE F. KELLAR, *Prosecuting Attorney, Delaware, Ohio.*

DEAR SIR:—This will acknowledge receipt of your request for my opinion, which reads as follows: