

It is evident that by analogy the holding of the court in reference to a transfer of funds from the waterworks department to the general fund will apply to such a transfer from the municipal light fund to the general fund. The authority to operate such public utilities springs from Section 4 of Article XVIII of the Ohio Constitution, and in the power granted there is no distinction between a waterworks and a municipal light plant. It will be further observed that Section 3799 was repealed because of the enactment of Section 5625-13, which latter Section applies to all subdivisions of the state. The section last mentioned clearly does not authorize a transfer such as you mention. It must be concluded that there is no essential distinction, in so far as your question is concerned, between the funds derived from a municipally operated electric light plant and a waterworks plant.

By reason of the foregoing, it is my opinion that until such time as the Supreme Court has made a different pronouncement upon the specific question, your department should be guided thereby.

Of course, the decision in the mandamus case in the Shelby County Common Pleas Court, to which you refer, definitely disposes of the particular question and is the law of the specific case which was considered by said court. However, there is nothing to prevent the question being raised as to subsequent actions, and, of course, the question may be carried to the higher courts for determination.

You are specifically advised that by reason of the provisions of Section 5625-13, General Code, and the pronouncement of the Supreme Court of Ohio in the case of *Cincinnati vs. Roettinger*, 105 O. S. 145, funds may not lawfully be transferred from the electric light fund to the general fund of a municipality.

Respectfully,

EDWARD C. TURNER,
Attorney General.

3067.

APPROVAL, ABSTRACT OF TITLE TO LAND OF CHARLES S. SEITZ AND ALICE B. SEITZ IN EDEN TOWNSHIP, SENECA COUNTY, OHIO.

COLUMBUS, OHIO, December 28, 1928.

HON. CHARLES V. TRUXAX, *Director of Agriculture, Columbus, Ohio.*

DEAR SIR:—You have submitted an abstract of title certified by V. A. Bennehoff under date of December 15, 1928, covering the following described premises:

“Situate in the Township of Eden, County of Seneca and State of Ohio and known as Commencing at the southwest corner of the Mohawk Country Club in the northeast quarter of Section Seven (7) Eden Township, Seneca County, Ohio, said point being located upon the center line of the Mohawk Road; thence north eighty-six degrees east (N. 86° 9' E.) two hundred eighty-seven (287) feet; thence south sixteen degrees forty minutes east (S. 16° 40' E.) one hundred seventy-three and five-tenths (173.5) feet; thence south twenty-three degrees east two hundred eighteen and five-tenths (218.5) feet; thence south twenty-one degrees thirty minutes west (S. 21° 30' W.) one hundred thirty-one and two-tenths (131.2) feet; thence south seventy-four degrees thirty minutes west (S. 74° 30' W.) one hundred

thirty-nine and seven-tenths (139.7) feet to the center of said Mohawk Road; thence north fourteen degrees west (N. 14° West) along the center line of the said road six hundred sixty-one and five-tenths (661.5) feet to the place of beginning; containing three and seventy nine (3.79) one hundredths acres, more or less."

On examination it is believed that said abstract shows sufficient merchantable title to be in the name of the Mohawk Golf Club free from encumbrances excepting taxes for the year 1928 in the amount of \$154.24 which are unpaid and a lien. Inasmuch as it is stated in your communication that this property is to be donated to the State, the certificate of the Director of Finance and the consent of the Controlling Board will be unnecessary. However, your attention is directed to the fact that in the event your department should determine to pay the taxes above mentioned this would involve a consideration and under such circumstances the certificate of the Director of Finance and the consent of the Controlling Board would be necessary.

Two deeds have been submitted, one executed by the Mohawk Golf Club, conveying said premises to Charles S. Seitz and Alice B. Seitz, dated December 6, 1928. The other is one in which Charles S. Seitz and Alice B. Seitz conveyed said premises to the State of Ohio. Said deeds are in proper legal form and in my opinion are sufficient to convey said premises to the State when properly delivered.

It may be pointed out that in both of said deeds the title is warranted to be free from encumbrances which would require the grantors in both instances to pay the taxes upon said premises.

It may further be pointed out that under former opinions of this department the taxes are a personal obligation against the owner of the lands at the time they accrued. While undoubtedly a tax lien cannot be enforced against the State, it is believed to be proper for the State in taking the title to property, to arrange for the payment of any taxes that may be a lien, either by paying them itself as a part of the consideration, or requiring them to be paid by the owner of the land to the end that an injustice may not be done to the taxing subdivision in which the property is situated.

In view of the foregoing, it is believed that your department will be able to adjust the tax lien in accordance with its understanding with the owners of said land whatever the same may be.

Said abstract and deeds are being returned herewith.

Respectfully,
EDWARD C. TURNER,
Attorney General.

3068.

LICENSE—MOTOR VEHICLES—FOREIGN GOVERNMENT CONSULS RESIDING IN OHIO MUST PURCHASE OHIO LICENSE.

SYLLABUS:

Consuls of Foreign Governments stationed in Ohio, are required to procure and pay for a license before they are authorized to operate or drive their motor vehicles upon the public roads or highways of this state.

COLUMBUS, OHIO, December 28, 1928.

HON. CHALMERS R. WILSON, *Commissioner of Motor Vehicles, Columbus, Ohio.*

DEAR SIR:—This will acknowledge receipt of your recent communication which reads: