

<i>Parcel No.</i>	<i>Names and Addresses of Grantees.</i>	<i>Consideration.</i>
12	Naomi K. Finn and Margaret K. Morton, c/o Waymouth Finn, 810 Broadway, Cincinnati, Ohio-----	\$2,714 00
109	Naomi K. Finn and Margaret K. Morton, c/o Waymouth Finn, 810 Broadway, Cincinnati, Ohio-----	2,303 00
110	Naomi K. Finn and Margaret K. Morton, c/o Waymouth Finn, 810 Broadway, Cincinnati, Ohio-----	8,453 00
112	Philip Morton, 828 Wade Street, Cincinnati, Ohio-----	\$54 00

I have examined the forms submitted and am of the opinion that they are in conformity with law. You are accordingly advised that these deeds have my approval as to form.

By virtue of the provisions of Section 9 of the act hereinabove referred to, the sales of these tracts are made by you, subject to the approval of the Governor and Attorney General. These sales meet with my approval, and I have accordingly endorsed my approval upon the forms submitted which are herewith returned.

Respectfully,

GILBERT BETTMAN,  
*Attorney General.*

70.

DOGS—REGISTRATION—OWNER SUBJECT TO PENALTY IF FEE UN-  
PAID PRIOR TO JANUARY 21ST—LAST DAY FALLING ON SUNDAY  
MAKES NO DIFFERENCE.

*SYLLABUS:*

*Where the owner, keeper or harborer of a dog required to be registered under Section 5652 of the General Code fails to make application and pay the registration fee prior to January 21st, he is required to pay the penalty of \$1.00, which must be paid with the registration fee. The fact that the 20th of January falls on Sunday will not excuse the payment of the penalty.*

COLUMBUS, OHIO, February 6, 1929.

HON. CHARLES O. CHAPMAN, *Prosecuting Attorney, McArthur, Ohio.*

DEAR SIR:—Acknowledgment is made of your recent communication, which reads as follows:

“Our county auditor has requested me to ask your opinion as to Section 5652 of the General Code, relating to the purchase of license, or, more correctly, the registration of dogs, and the payment of the prescribed fees therefor.

The statute reads: ‘ \* \* \* And provided further that if such application for registration is not filed and said fee paid on or before the twentieth day of January of each year, the county auditor shall assess a penalty of one dollar upon such owner, keeper or harborer, which must be paid with the registration fee. \* \* \* ’

A local attorney here advised the auditor that, where the twentieth falls

on Sunday, he should accept the regular fee, without the additional dollar, on the next day, Monday, the 31st. Notwithstanding this, the auditor collected the additional dollar. He now wishes your opinion as to whether he was right in so doing, and whether he shall retain this amount as properly collected, or pay it back to the persons from whom he so collected it.

He and I both believe that he was right, but he wishes to be assured that he is, or to be corrected, if he is wrong."

Section 5652, General Code, which was last amended by the 87th General Assembly, 112 O. L. 347, in substance provides that every person who owns, keeps or harbors a dog more than three months of age shall, annually, before the first day of January of each year, file an application for registration, setting forth the detailed information with reference to the age and character of the dog owned, as required therein. Such application is required to be accompanied by the registration fee as set forth therein for the particular kind of dog owned. As stated in your communication, the said section further provides that if such application for registration is not filed and said fee paid on or before the 20th day of January of each year, the county auditor shall assess a penalty of \$1.00 on such owner, keeper or harbinger, which is required to be paid with the registration fee.

Undoubtedly the question you present arises by reason of the provisions of Sections 8301 and 10216 of the General Code.

Section 8301 enumerates the days of the year which shall be known as legal holidays. After said enumeration, said section provides in substance that if certain days designated therein as holidays fall upon Sunday, the next succeeding secular or business day shall be a holiday. It is obvious that this section has no application to the question your inquiry presents.

Section 10216, above mentioned, provides :

"Unless otherwise specifically provided, the time within which an act is required by law to be done shall be computed by excluding the first day and including the last ; except that the last shall be excluded if it be Sunday."

This section, as well as Section 8301, above mentioned, was under consideration by my predecessor in an opinion found in Opinions of the Attorney General for 1927, p. 2604, in connection with the provisions of Section 1396 of the General Code, which provided that "hares and rabbits may be taken and possessed only from the 15th day of November to the 1st day of January, both inclusive, \* \* \*." In that case the first day of January fell upon Sunday and the question presented was whether or not rabbits could be taken on Monday, January 2nd. It was held that the hunting season for such game closed on Saturday, December 31st, and the fact that January 1st fell on Sunday did not change the situation.

It is believed to be obvious that Section 10216 could have no application to the case you present for the reason that said section is applicable only in those instances wherein time is to be computed. In the case under consideration no such computation is required for the reason that the Legislature in specific and unambiguous language, has definitely fixed the date upon which a penalty of \$1.00 will be assessed if the requirement of Section 5652 is not met. It will be observed that the requirements of said section are that said application shall be made and the registration fee paid on or before the first day of January. In other words, the act therein required to be performed by the owner or harbinger of a dog should be taken before the first day of January. However, by reason of the further provision of the section, notwithstanding one has not complied with the provision relative to making application prior to the first day of January, the penalty does not attach until the day after January 20th.

In the event that said application is not made on or before the 20th day of January, the penalty of \$1.00 shall attach, and there seem to be no exceptions to this rule provided in the statute.

In view of the foregoing, you are specifically advised that where the owner, keeper or harbinger of a dog required to be registered under Section 5652 of the General Code fails to make application and pay the registration fee prior to January 21st, he is required to pay the penalty of \$1.00, which must be paid with the registration fee. The fact that the 20th of January falls on Sunday will not excuse the payment of the penalty.

Respectfully,  
GILBERT BETTMAN,  
*Attorney General.*

71.

TAXING OF FOREST LANDS AT FRACTION OF LOCAL RATE CONSTITUTIONAL—PROPERTY TAXABLE WHEN NOT EXEMPT ON TAX LISTING DAY—WHEN EXEMPTION UNDER SECTION 5554-2, GENERAL CODE, UNAUTHORIZED.

SYLLABUS:

(1) *The provisions of Section 5554-2 of the General Code, which permit forest lands to be taxed annually at fifty percent of the local rate, are authorized under Section 36, Article 2 of the Constitution of Ohio, which is authority for exemptions in addition to those found in Section 2 of Article 12 of the Constitution of Ohio.*

(2) *If property is not exempt on tax day, it is liable to taxation for the current year, although it afterward becomes exempt; where the State Forester does not file with the county auditor the certificate provided in Section 5554-2 of the General Code, until after the tax listing day in any year, or the six months limitation after the filing of the application has not expired, the exemption provided in said section does not apply to the current year.*

COLUMBUS, OHIO, February 6, 1929.

HON. G. H. BIRRELL, *Prosecuting Attorney, Warren, Ohio.*

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

"I have received a request for advise, from the county auditor, of Trumbull County, a copy of which letter is enclosed. Since this raises a question which must be of interest to every county auditor in the State of Ohio, I am referring this matter to you for an opinion.

The question is: Whether the provisions of Sec. 5554-2 of the General Code, which would permit forest land to be 'taxed annually at fifty per cent of the local rate', are not in conflict with Article 12, Section 2 of the Constitution of the State of Ohio, known as the Uniform Tax Rule.

If this section is not in conflict with the Constitution, can the county auditor apply its provisions to the June settlement of taxes when the certificate from the State Forester does not reach the county auditor until after the tax listing day in April of any year?"