

**Opinion No. 422****Building and Loan Associations—  
Stock, Cancellation of—Withdrawals—  
Home Owners' Loan Bonds.**

HELD: A solvent building and loan association has power to assign and transfer Home Owners' Loan Bonds to a member in cancellation of its stock or outstanding contractual obligations without considering the sequence of the order of registration for withdrawals.

January 17, 1934.

You have submitted the following question: "Would it be legal for a building and loan association of Montana to take Home Owners' Loan Bonds and turn them to shareholders of their association without considering the sequence of the order of registration for withdrawal?" We assume that this question is asked concerning solvent building and loan associations. No special facts are presented and our answer, therefore, must necessarily be general.

The question of equality of treatment of members is not presented. It is the general rule that members in building and loan associations must be treated equally. (Sundheim on Building and Loan Associations, (3rd. Ed.) sections 25, 158). The author, in section 25, supra, says: "Every member is entitled to the same rights and privileges as any other member, and this is true, whether he has assigned his shares to the association as security for a loan or not. The building association idea implies absolute equality and mutuality among the members holding the same class of stock. In the absence of statutory authority, there can be no preferential stockholders. All advantages and burdens must be distributed as equally as possible among all classes of members \* \* \*."

Paragraph 8 of section 12, Chapter

57, Laws of 1927, as amended by Chapter 11, Laws of 1933, provides for the registration of withdrawals by members and the payment to them in the order received of "all cash collections" with certain limitations. It will be observed that this section has to do with cash withdrawals, that is, to cases where a member has elected to withdraw and accept cash according to the terms of his contract and the provisions of the by-laws.

It is my opinion that an attempt by a member to purchase from his association home owners' loan bonds and to pay for the same by surrender of his stock or cancellation of his contract does not constitute a cash withdrawal within the meaning of the above mentioned statute and that in the absence of express prohibition a solvent building and loan association has power to assign and transfer home owners' loan bonds to a member in cancellation of its stock or outstanding contractual obligations, without considering the sequence of the order of registration for withdrawals. See 9 C. J. 953, Sec. 65, note 91.