You ask whether it would make any difference if the mortgagee presents satisfactory proof to the department showing that he already has physical possession of the vehicle in question. I think it would make just this difference; namely, that it would show that the mortgagee had *both* title and possession, but for practical purposes in the issuance of a certificate of title I doubt whether it makes any difference.

As to your last question, of course if possession was taken pursuant to a foreclosure or a replevin, that fact should be shown in order to complete your files.

FINANCIAL INSTITUTIONS, DEPARTMENT OF: Building and loan associations—liability of stockholders.

September 10, 1937.

Hon. R. A. McKinley, Director,
Department of Financial Institutions,
Indianapolis, Indiana.

Dear Sir:

This will acknowledge receipt of your letter of September 1 in which you ask the opinion of the Attorney General as to the liability of stockholders in building and loan associations in the event of insolvency of such corporations.

In reply to this question, beg to say that a building and loan association is not a bank or banking company as designated in the Constitution of the State of Indiana, and it is my opinion that section 6, article 11 of the Constitution of the State of Indiana, which imposes on the stockholders in every bank or banking company a liability to an amount over and above their stock equal to their respective shares of stock does not apply.

It will be noted, however, that section 263 of the Financial Institutions Act contains the provision that:

> "The unpaid demands of withdrawing shareholders shall not constitute an indebtedness against the association and the withdrawing shareholders shall not be deemed creditors of the association for any withdrawals at any time remaining unpaid."

Your attention is further directed to section 268 of the Financial Institutions Act, which reads as follows:

> "Any building and loan association may impose and collect fines or additional interest from its borrowing shareholders, their legal representatives or successors in interest, if they fail, neglect or refuse to pay dues, interest, premiums or loan fees when due, but no such fines shall exceed 10 per cent of the amount of the delinquent payments, and such fines shall not be charged more than once for each delinquency. *No fines or penalties, other than those herein specified, shall be imposed or collected.*"

No where in the Act is there any provision for assessments against stockholders in the event of insolvency of the institution.

It is my opinion, therefore, that there could be no legal assessment levied or imposed against stockholders of a building and loan association who are non-borrowing members. Their loss in the event of insolvency would accordingly be limited to the amount of money paid in for the purchase of their certificates of stock.

POLICE, INDIANA STATE: Cities of fifth class deeding park land to State for State Police barracks.

September 10, 1937.

Hon. Don F. Stiver, Superintendent,
Indiana State Police,
Indianapolis, Indiana.

Dear Sir:

I have before me your recent letter in which you request an official opinion on the following questions:

> "1. Whether or not a city of the fifth class, if it purchases land for park purposes, may deed that land, or a part thereof, to the state for State Police barracks.
> "2. If not, can such city lease such lands to the State Police for a period of ninety-nine years?"

From the facts stated in your letter the first question can best be answered in two parts, dependent upon whether the city intends to dispose of its park property by deed of sale or deed of gift. If the transfer of the property to the state