

their obligations to a school district where the school house has been destroyed or its intended purpose is prohibited by the order of the Industrial Commission, for section 7630-1 says that that section can be used only when "it is not practicable to secure such funds under any of the *six preceding sections*," and this of course refers to sections 7625, 7626, 7627, 7628, 7629 and 7630 G. C. Again, in section 7625 G. C. it is provided that before that section can be used, the board of education must determine and certify that the funds at its disposal "or that can be raised under the provisions of 7629 and 7630 are not sufficient to accomplish the purpose."

We thus see that these three bond issuing sections, 7625, 7629 and 7630-1 G. C., each has considerable relation to the other, and unless it can be clearly established otherwise, and that does not seem possible, the words "school property," as intended in section 7625, would be the school property which was mentioned in section 7629 G. C. The Supreme Court has decided in the Allard case that school trucks do not come within the language of 7625 and more than likely if the court, having before it 7629 G. C. at the same time, believed that section 7629 offered relief in the matter of the purchase of school trucks, the court would likely have said so in its decision in the Allard case. On the contrary, the court indicated that there was no provision of law (including section 7629) for the authorization of the issue of bonds for the purchase of motor trucks for school transportation purposes, and the General Assembly has not corrected it since the time the Allard decision was handed down, although opportunity was had; this may have been an oversight on the part of the law-making body or it may have been felt that all the board of education had to do was to make a levy for a sufficiently large contingent fund to take care of the matter. It is not clear that any purposes can be read into 7629 which do not appear in 7625. Because 7625 practically says if it can be done under section 7629, then that section should be used, but if section 7629 will not yield sufficient revenue, then recourse should be had to section 7625; similarly section 7630-1 provides that before that section can be used for the purpose therein mentioned, recourse must first be had to sections 7625 and 7629. So that the sections from the standpoint of use practically come in this order: 7629 should be used first; if not sufficient, then 7625, and then if there is an emergency as described in 7630-1 G. C. the latter section could be used if not practical to use "the six preceding sections."

In reply to your question then you are advised that, based upon the language appearing in the decision of the supreme court in the case of Allard vs. Board of Education, 101 O. S., 469, and the fact that 7629 was before the court at that time, and the language of such section was not changed in Senate Bill 257, 109 O. L., 252, it is the opinion of this department:

1. A board of education cannot legally issue bonds under the provisions of sections 7629 and 7630 G. C. (109 O. L., 252) for the purpose of obtaining motor trucks to transport pupils to school.

2. Where bonds are issued under the provisions of section 7629 G. C. for the purposes mentioned therein, no vote of the people is necessary.

Respectfully,

JOHN G. PRICE,
Attorney-General.

3274.

APPROVAL, THIRTY-SIX LEASES, TO STATE LANDS AT AKRON, NEW-COMERSTOWN, LIMA, COLDWATER, GROVEPORT, COLUMBUS, MILLERSPORT, DELPHOS, DAYTON, MOXAHALA, CANAL WINCHESTER, LOCKVILLE, MASSILLON, LANCASTER, BARBERTON, LOCKLAND, AND HAMILTON.

COLUMBUS, OHIO, June 27, 1922.

Department of Highways and Public Works, Division of Public Works, Columbus Ohio.

GENTLEMEN:—I have your letter of June 20, 1922, in which you enclose the following leases, in triplicate, for my approval:

Land Leases.

	<i>Valuation</i>
To E. W. Hale, 83 Reilly St., Akron, Ohio.....	\$2,500 00
George H. Lyons, Newcomerstown, Ohio.....	400 00
Henry W. Neff, 137 W. North St., Lima, Ohio.....	100 00
Henry W. Neff, 137 W. North St., Lima, Ohio.....	100 00
Henry W. Neff, 137 W. North St., Lima, Ohio.....	100 00
The Coldwater Sportsmen's Club, Coldwater, Ohio.....	500 00
J. Samuel Smith, Groveport, Ohio.....	315 00
A. R. Manhard, Lima, Ohio.....	100 00
Jenkins Daniels, Columbus, Ohio.....	200 00
George Hartnagel, Delphos, Ohio.....	833 33
Henry Wemmer, Lima, Ohio.....	250 00
Charles W. Engle, Columbus, Ohio.....	400 00
Fred J. Hayes, Columbus, Ohio.....	400 00
Mrs. Elizabeth Benroth, Lima, Ohio.....	100 00
Charles W. Smith, Columbus, Ohio.....	200 00
W. M. Zollinger, Millersport, Ohio.....	125 00
The Wells-Creamery Company, Delphos, Ohio.....	500 00
The Troy-Pearl Laundry Company, Dayton, Ohio.....	1,666 66
Kathryn M. Laing, Delphos, Ohio.....	1,666 66
A. J. Noe, Moxahala, Ohio.....	400 00
Jack H. Weaver, Akron, Ohio.....	700 00
George E. Miller and Rose Miller, Columbus, Ohio.....	400 00
J. W. Reed, Lima, Ohio.....	250 00
J. C. Snider, Canal Winchester, Ohio.....	266 66
John P. Maynard, Columbus, Ohio.....	100 00
Lucretia and William M. Ross, Millersport, Ohio.....	133 33
William R. Workman, Lockville, Ohio.....	200 00
Frank E. Hess, Massillon, Ohio.....	8,672 00
William G. Brenner, Lancaster, Ohio.....	200 00
Edward Prior, Columbus, Ohio.....	400 00
Christ Ludwigs, Columbus, Ohio.....	400 00
William A. Schadt and Rose Schadt, Millersport, Ohio.....	200 00
D. H. Derflinger, Columbus, Ohio.....	400 00

Water Leases

	<i>Annual Rental.</i>
The Babcock & Wilcox Company, Barberton, Ohio.....	\$864 00
Adolph Knoch, Lockland, Ohio.....	18 00
Fred S. Schultheis, Hamilton, Ohio.....	54 00

I have carefully examined said leases, find them correct in form and legal, and am therefore returning the same with my approval endorsed thereon.

Respectfully,

JOHN G. PRICE,
Attorney-General.

3275.

MUNICIPAL CORPORATIONS—MAY BORROW MONEY AND ISSUE CERTIFICATES OF INDEBTEDNESS FOR PURPOSE OF ANTICIPATING CURRENT SINKING FUND REVENUES—SEE SECTION 3913 G. C. (109 O. L. 336).

Under section 3913 G. C. as amended 109 O. L. 336, the council of a municipal corporation may borrow money and issue certificates of indebtedness for the purpose of anticipating current sinking fund revenues.

COLUMBUS, OHIO, June 27, 1922.

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

GENTLEMEN :—The bureau requests the advice of this department as follows :

"In Opinion No. 1141 of 1918, Volume I, page 546, concurred in by letter of July 16, 1920, it was held that :

'A municipal corporation may not borrow money under section 3913 G. C. in anticipation of sinking fund levies nor for the purpose of meeting a deficiency in the sinking fund.'

Section 3913 G. C. at the time this opinion was rendered provided in part that :

'In anticipation of the general revenue fund in any fiscal year, such corporation may borrow money and issue certificates of indebtedness therefor, etc.'

The opinion cited above construes the phrase 'In anticipation of general revenue fund' as not including the sinking fund since such sinking fund is not a part of such general revenue fund.

Said section 3913 G. C. was amended in 109 O. L. 336, and now provides in part that :

"In anticipation of the collection of current revenues in any fiscal year such corporations may borrow money and issue certificates of indebtedness therefor, etc."

Question: In view of such amendment can certificates of indebtedness or notes be issued by a municipality for sinking fund purposes?"

An examination of the opinion of 1918 referred to, as well as an earlier one found in Vol II, Opinions of Attorney-General, 1915, page 1082, shows that the holding to which the bureau refers in its question was indeed based upon the words "general revenue fund" as occurring in section 3913 of the General Code prior to its amendment in 1921. The elimination of these words at least destroys the basis of the former opinions and requires reconsideration of the question.

In the opinion of this department the verbal change in the section does produce