

ments on municipal and school bonds semi-annually, it having been found that this arrangement adds materially to their marketable value when offered for sale.

It must therefore be held that inasmuch as there is no inhibition appearing in the law against making the interest payments on serial bonds for a lesser period than one year, while the maturities must be annual following each final tax settlement, the interest payments may be made semi-annually.

Respectfully,
JOHN G. PRICE,
Attorney-General.

2902.

GRISWOLD ACT—BOARD OF EDUCATION MAY ISSUE BONDS WITHOUT VOTE OF ELECTORS FOR REBUILDING OR REPAIRING SCHOOL HOUSE OR CONSTRUCTING NEW SCHOOL HOUSE WHERE OLD SCHOOL HOUSE WAS DESTROYED BY FIRE OR OTHER CASUALTY OR USE OF SAME PROHIBITED BY ORDER OF INDUSTRIAL COMMISSION—SEE SECTION 7630-1 G. C. (109 O. L. 336)—BOARD MAY LEVY TAX SUFFICIENT TO PROVIDE FOR BOND ISSUE—SEE SECTION 5649-4 G. C.

1. *Under the provisions of amended section 7630-1 (109 O. L., p. 336) a board of education may issue bonds without a vote of the people upon the same for the purpose of rebuilding or repairing a school house or constructing a new school house, where the school house formerly used was destroyed by fire or other casualty, or if the use of the same for its intended purpose was prohibited by an order of the Industrial Commission, but before a board of education can avail itself of the provisions of section 7630-1 G. C. it must appear that it is not practicable to secure the necessary funds under sections 7625, 7626, 7627, 7628, 7629 and 7630 G. C.*

2. *Under the provisions of section 5649-4 G. C. a board of education issuing bonds under the provisions of section 7630-1 G. C. may levy a tax sufficient to provide therefor, irrespective of any limitations.*

COLUMBUS, OHIO, February 25, 1922.

HON. H. A. BURGESS, *Prosecuting Attorney, Warren, Ohio.*

DEAR SIR:—Acknowledgment is made of the receipt of your recent letter requesting the opinion of this department upon the following:

“Section 7630-1, as amended by the last session of the legislature, provides as follows:

‘If a school house is wholly or partly destroyed by fire or other casualty, or if the use of any school house or school houses for their intended purpose is prohibited by an order of the Industrial Commission of Ohio or its successor in such authority, and the board of education of the school district is without sufficient funds applicable to the purpose with which to rebuild or repair such school house or to construct a new school house for the proper accommodation of the schools of the district, and it is not practicable to secure such funds under any of the six preceding sections because

of the limits of taxation applicable to such school district, such board of education may issue bonds for the amount required for such purpose. For the payment of the principal and interest on such bonds and on bonds heretofore issued for the purpose herein mentioned, and to provide a sinking fund for their final redemption at maturity, such board of education shall annually levy a tax as provided by law.'

This section being practically the same as the section formerly enacted in 103 Ohio Laws, page 527, with the exception that the amended section has omitted the words 'and upon the approval of the electors in the manner provided by section 7625 and section 7626,' etc.

I therefore request your opinion upon the question as to whether or not a school board, by virtue of the amended section, may issue bonds without a vote of the people upon the same, for the purpose of rebuilding or repairing a school house, or constructing a new school house which has been condemned by an order of the chief inspector of workshops and factories, when the board of education is without sufficient funds applicable to the purpose.

Second. If such authority is not granted by section 7630-1, as it is now enacted, would the school board have authority to issue bonds for said purposes, after a vote has been taken upon the question of the issuance of bonds, in accordance with section 7625, and the electors of the said school district reject the proposition of issuing the bonds?

Third. If the board of education is authorized to issue bonds under either or both of the foregoing circumstances, would a tax levy for paying the interest and maturity of bonds issued by virtue thereof, be outside of all limitations?"

Your first question is whether or not a board of education, by virtue of amended section 7630-1, as appears in 109 O. L., p. 336, may issue bonds without a vote of the people, for the purpose of rebuilding or repairing a school house or construct a new school house, where an order has been placed against the use of a school house by the chief inspector of workshops and factories. Prior to the enactment of section 7630-1 G. C. as it now appears (H. B. 33), the words "and upon the approval of the electors in the manner provided by sections seventy-six hundred and twenty-five and seventy-six hundred and twenty-six" were a part of old section 7630-1 G. C., but when 7630-1 G. C. was amended in H. B. 33 by the 84th General Assembly, these words "and upon the approval of the electors in the manner provided in seventy-six hundred and twenty-five and seventy-six hundred and twenty-six" were omitted and an examination of the bill as originally introduced in the General Assembly shows that this is not a printer's error or a clerical error, but such words were knowingly left out, and having been passed by the General Assembly with these words relative to the approval of the electors no longer appearing in the section, it must be held that it was the legislative intent that for those bond issues provided for in school districts, under the provision of section 7630-1, the approval of the electors was no longer to be required. If it was the intent of the General Assembly that there should be an election under section 7630-1, then these words would have been retained in the amended section instead of being entirely omitted from the text of section 7630-1 G. C., as it has appeared heretofore.

It is very important to note, however, that before a board of education may avail itself of the provisions of section 7630-1, it must appear that "it is not prac-

licable to secure such funds under any of the six preceding sections (7625, 7626, 7627, 7628, 7629 and 7630) because of the limitations of taxation applicable to such school district." Upon this question of limitations, new section 7630-2 (H. B. 33) is pertinent and reads as follows:

"The net indebtedness created or incurred by any school district shall never exceed six per cent of the total value of all property in such school district as listed and assessed for taxation; provided, however, that in the case of any school district whose net indebtedness at the time of the passage of this act exceeds said six per cent, such school district may, in addition to said six per cent issue bonds under the authority of section 7625 General Code not exceeding in the aggregate an amount equal to one per cent of the total value of all property in such school district as levied and assessed for taxation and bonds under authority of section 7629 of the General Code not exceeding one-half of one per cent of said total value. 'Net indebtedness' for school districts shall be defined as provided in section 3949, General Code, for municipalities. Bonds issued under the authority of section 7630-1 of the General Code for the replacement of condemned or destroyed school houses as well as all classes of bonds which are in said section 3949 excluded from the calculation of the net indebtedness of municipalities shall, insofar as applicable to school districts, be likewise excluded from the calculation of the net indebtedness of school districts."

Upon your immediate question as to bonds issued under section 7630-1, these latter bonds for the replacement of condemned or destroyed school houses are to be excluded from the calculation of the net indebtedness of the school district which is to be computed under section 7630-2 in arriving at the amount of net indebtedness which is permitted in the school district in question.

Your second question is based upon the theory that the authority to issue bonds without a vote of the electors "is not granted by section 7630-1 G. C.," and as such authority is granted by section 7630-1, as set forth in the answer to your first question, your second question need not be answered beyond the statement that if the board of education has started to issue bonds in accordance with section 7625, and it must be presumed that it had authority to do so when it started such proceedings, then all the requirements of section 7625 G. C. must be carried out, one of which is an election by the people for those bonds issued under section 7625 G. C.

Your third question is apparently whether, in a case where a school house had been condemned for school use, the tax levy for paying interest at maturity of bonds issued would be outside all limitations. The answer to this inquiry appears in section 5649-4 G. C., which reads as follows:

"For the emergencies mentioned in section forty-four hundred and fifty, forty-four hundred and fifty-one, fifty-six hundred and twenty-nine, and 7630-1 of the General Code, and for local school purposes authorized by a vote of the electors under the provisions of sections 5649-5 and 5649-5a of the General Code, to the extent of three mills for such school purposes, the taxing authorities of any district may levy a tax sufficient to provide therefor irrespective of any of the limitations of this chapter."

In reply to your inquiry you are therefore advised that it is the opinion of this department that:

1. Under the provisions of amended section 7630-1 (109 O. L., p. 336) a board of education may issue bonds without a vote of the people upon the same for the

purpose of rebuilding or repairing a school house or constructing a new school house, where the school house formerly used was destroyed by fire or other casualty, or if the use of the same for its intended purpose was prohibited by an order of the Industrial Commission, but before a board of education can avail itself of the provisions of section 7630-1 it must appear that it is not practicable to secure the necessary funds under sections 7625, 7626, 7627, 7628, 7629 and 7630.

2. Under the provisions of section 5649-4 G. C., a board of education issuing bonds under the provisions of section 7630-1 G. C. may levy a tax sufficient to provide therefor, irrespective of any limitations.

Respectfully,
JOHN G. PRICE,
Attorney-General.

2903.

REAL ESTATE—CONVEYANCE OF FEE SIMPLE TITLES TO PERMANENT LEASEHOLDS OF SCHOOL AND MINISTERIAL LANDS OF STATE—HOW MADE—SEE SECTION 3203-22 G. C., ET SEQ.

Conveyance of fee simple titles to permanent leaseholds of school and ministerial lands of the state, which have not been revalued pursuant to the provisions of the original act under which such leases were executed, may be made by the state to the lessees or their assigns, and deed executed in compliance with the provisions of sections 3203-28, 3203-22, 3203-23, 3203-25 and 3203-26 of the General Code.

COLUMBUS, OHIO, February 25, 1922.

HON. JOSEPH T. TRACEY, *Auditor of State, Columbus, Ohio.*

DEAR SIR:—Receipt is acknowledged of your recent communication which reads as follows:

“A’ has a perpetual leasehold on section 16 school (or 29 ministerial) land, for which he has made application to obtain a fee simple title.

Said land has not been revalued as required by the original lease or the law pursuant to which it was executed, nor, was it revalued within one year from the taking effect of Secs. 24, 25 and 26, O. L. 107 (page 374).

The state is desirous of selling said land to ‘A.’

Question: What will be a legal procedure?”

Pertinent to your question, section 3203-24 G. C. provides:

“Except upon surrender of lease and sale as provided in section 43-1, in no case shall such application for surrender be considered, or any conveyance of the fee simple title be executed, where the revaluation of such lands has not been made in full compliance with the act pursuant to which such original lease was executed, or where the other terms, conditions and reservations of the lease under which such applicant claims title, have been fully complied with, special laws heretofore enacted notwithstanding. Provided, however, if revaluation has not been made as required by the original lease or the law pursuant to which it was executed, and instead thereof revaluation has been made pursuant to sections 24, 25 and 26 within one year