

a result contrary to that formerly reached. The purpose of section 3913 of the General Code is to authorize borrowing in anticipation of revenues that are already in process of collection and applying the proceeds of the loan to the purposes for which the revenues have been raised, where such application is necessary or expedient to be made prior to the time when the revenues accrue in the ordinary course of fiscal administration. No reason has been found for not applying such a policy to sinking fund or debt retirement revenue as well as to other current revenue. The sinking fund authorities, for example, have no power to borrow money in anticipation of revenues; so that no inference against the apparent meaning of section 3913 in its present form can be drawn from the existence of any other power to accomplish the same result.

It is therefore the opinion of this department that certificates of indebtedness or notes can lawfully be issued by a municipality for sinking fund purposes under section 3913 of the General Code and subject to the restrictions thereof. The proceeds of the loan when realized will become a part of the sinking fund to be administered as sinking fund money without further action on the part of council. The proceeds of the sinking fund levy to the extent so anticipated will be automatically appropriated to the payment of the loan with interest and would not constitute general sinking fund revenues.

While the foregoing conclusion seems unavoidable to this department, it likewise seems impossible to conceive of a case where there would be occasion to exercise the power thus newly granted, unless gross mismanagement of the fiscal operations of the municipality had occurred. For since the Griswold act has separated the function of administering sinking fund from that of paying final judgments, the only obligations chargeable to this sinking fund are those the maturities of which can be arranged for in advance so as to co-ordinate with tax settlement periods.

Respectfully,
 JOHN G. PRICE,
Attorney-General.

3276.

MUNICIPAL CORPORATIONS—HAVE AUTHORITY TO REFUND INDEBTEDNESS UNDER SECTION 3916 G. C. (109 O. L. 339)—LIMITATION, INDEBTEDNESS MUST BE INCURRED PRIOR TO JANUARY 1, 1924—HOW ORDINANCE FOR ISSUANCE OF REFUNDING BONDS PUBLISHED.

1. *Under section 3916 G. C. as amended 109 O. L. 339, municipal corporations have the same power to refund indebtedness as they had prior to the amendment of that section except that the indebtedness must be incurred prior to January 1, 1924.*
2. *An ordinance providing for the issuance of refunding bonds must be published in the manner required by law.*

COLUMBUS, OHIO, June 27, 1922.

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

GENTLEMEN:—The bureau has requested the advice of this department upon the following questions:

"The village of Hicksville, Ohio, has three bonds of different issues maturing which they are unable to pay through their limitations of taxation as stated by them. The information they are seeking in view of these conditions is as follows:

Question 1. May bonds be issued under the provisions of section 3916 G. C., as amended, 109 O. L. 339, to provide funds for the payment of such bonds at maturity and the interest that has accrued on same to date?

Question 2. Would an ordinance providing for such debt extension bonds under the provisions of said section 3916 G. C., require publication as provided for in section 4228 of the General Code?"

The first question as relating to section 3916 before its amendment, was considered and discussed by this department in an opinion (No. 1157, Vol. I, Opinions of Attorney-General for 1920, page 440) to the bureau under date of April 16, 1920. It is merely necessary to add to that opinion that under section 3916 as it now stands, whatever power to refund indebtedness was possessed by a municipal council prior to this amendment remains with respect to an indebtedness created or incurred before the first day of January, 1924. The conclusion therefore is that subject to the qualifications enumerated in the opinion referred to, and under the restricted circumstances therein mentioned, it would be lawful for a city or village to issue refunding bonds under section 3916 to extend the time of payment of any indebtedness created or incurred before the first day of January, 1924.

Your second question requires consideration of section 4227 of the General Code rather than of 4228 referred to in the bureau's letter, or of 4229, for section 4227 provides what ordinances shall be published. Section 4228 provides for the medium of publication, and section 4229 provides for the duration of such publication. The simple language of section 4227 is that:

"Ordinances of a general nature, or providing for improvements shall be published as hereinafter provided before going into operation."

The words requiring interpretation are "of a general nature." In the opinion of this department an ordinance providing for the issuance of bonds which are to be a general charge on the tax duplicate is one "of a general nature." No decisions exactly in point have been found, but it seems that the test is to be determined by the scope of the effect of the ordinance.

Electric & Gas Co. vs. Orrville, 26 C. D. 43;
Johnson vs. Elyria, 6 N. P. 372;
Knauss vs. Columbus, 13 O. D. 200.

Applying this test, it is apparent that all the present and future tax payers of the municipality will be necessarily and immediately affected by the ordinance; and this effect is different in degree merely from that which would be produced by the incurring of an original indebtedness.

It is therefore the opinion of this department that an ordinance passed under section 3916 of the General Code must be published in the manner provided by law.

Respectfully,

JOHN G. PRICE,
Attorney-General.