

be necessary for the proper occupancy, use and enjoyment of one church in one particular locality, under certain circumstances, may not be necessary or at all suitable for another church in another locality where different environment, different religious and social customs and taste prevailed. It is not unreasonable to suppose that because of the particularity with which the legislature dealt with the subject it considered this matter of the determination of appropriate accessories or instrumentalities of worship as more or less related to the choice of *mode of worship itself*. The right to make the former can hardly be entirely disassociated from the right to choose the latter, which right was so clearly guaranteed in section 7 of Article 6.

It is the opinion of this department that the question of necessity of such lands for the proper occupancy, use and enjoyment of the church building is, in the first instance, in the official governmental body of the church or congregation itself. In the acquisition of land for church purposes the people who acquire it, and build and support the church, determine the question of necessity in the first instance and in the absence of such unusual circumstances as show lack of good faith, their decision as to necessity should not be disturbed unless, of course, the land is "leased or otherwise used with a view to profit," as provided in section 5349. This latter provision furnishes the key to the full understanding of this section. My information is that this has been the unquestioned practice throughout the state since the adoption of the constitution and that this question has never been passed upon by this department or decided by any of the courts. The conclusion to which this department has come in this matter is further strengthened by the belief that the courts would not sustain the narrower view of this section. It is probably unnecessary to add that in case this land is in any way leased or otherwise used for profit, or later used for other than church purposes, it may be placed on the tax duplicate and that in extreme cases the power of the taxing officials will be sufficient to prevent abuses.

The county auditor is the official who must apply these principles to given facts, exercising and acting upon his judgment as to such facts. In case an exemption is denied the relief of an aggrieved applicant lies in final and authoritative adjudication in the courts. However, in view of the auditor's request in the present case and to furnish a general rule, it may be stated that, on the facts as presented, this department is unable to say that the land surrounding this church is not necessary for its proper occupancy, use and enjoyment.

Respectfully,

JOHN G. PRICE,
Attorney-General.

3784.

APPROVAL, REFUNDING BONDS OF ZANE RURAL SCHOOL DISTRICT,
LOGAN COUNTY, \$7,000.

COLUMBUS, OHIO, December 11, 1922.

Department of Industrial Relations, Industrial Commission of Ohio, Columbus, Ohio.