"Special statutory provisions for particular cases operate as exceptions to general provisions which might otherwise include the particular cases and such cases are governed by the special provisions."

An application of this well established principle of statutory construction to the instant case raises two questions. Are the two laws in conflict and which is special? While it may be argued that Amended Substitute Senate Bill No. 38 confers an authority which Section 2333 takes away in the case of a county and therefore there is a conflict, it is nevertheless true that the two laws may each be given effect and bonds issued under Amended Substitute Senate Bill 38 without an election in excess of debt limitations which otherwise could not be issued, subject only to the restriction of Section 2333 in the event the building is to cost more than twenty-five thousand dollars. As to which law is special, it might be contended that Amended Substitute Senate Bill, being temporary, an emergency law, passed as a relief measure to assist in meeting an economic crisis, is special in character. But it must also be borne in mind that it is general in its application to all subdivisions and to all construction purposes for which bonds may be issued, while Section 2333 is special in that it applies only to counties and only to certain projects.

As hereinabove indicated, it is possible to give effect to each law. Under these circumstances, the courts have established the principle that all laws must be given effect and harmonized when it is possible so to do. *Surety Co.* vs. *Slag Co.,* 117 O. S. 512; *Cincinnati St. Ry. Co.* vs. *Whitehead,* 39 O. A. 51.

To summarize, the following conclusions must be drawn: Amended Substitute Senate Bill No. 38 makes no reference to Section 2333, General Code; Section 2333, General Code, is special in character while Amended Substitute Senate Bill No. 38 is more general in its application; and further the two laws are not irreconcilable and in conflict.

It is my opinion, therefore, that bonds may not be issued by a county for the purpose of erecting a courthouse or other county building, which is to cost more than twenty-five thousand dollars, under authority of and within the limitations contained in Amended Substitute Senate Bill No. 38, as enacted by the 90th General Assembly, special session, without authority of the electors in view of the provisions of Section 2333, General Code.

Respectfully,
JOHN W. BRICKER,
Attorney General.

1696.

HOUSING RELIEF WARRANTS—WHERE RECEIVED BY COUNTY TREASURER UNDER AM. S. B. NO. 200 COUNTY AUDITOR AUTHORIZED TO DEDUCT AMOUNT THEREOF FROM ALL GENERAL TAXES.

SYLLABUS:

1. *Where the county treasurer has received housing relief warrants, pursuant to the authority of the provisions of Amended Senate Bill No. 200 recently enacted, the county auditor is authorized to deduct the amount thereof from all general taxes,*

as distinguished from special assessments, even though a portion of such general tax may have been levied for the sinking fund requirements of a subdivision.

2. *Amended Senate Bill No. 200 makes no provision for the situation, which might possibly be created by the issuance and receipt of housing relief warrants in full payment of all general taxes assessed against a parcel of real property such as the payment to the subdivision of an amount of tax funds necessary for its sinking fund requirements.*

COLUMBUS, OHIO, October 9, 1933.

HON. FREDERIC V. CUFF, *Prosecuting Attorney, Napoleon, Ohio.*

DEAR SIR:—I am in receipt of your request for my opinion, as follows:

> "Under Amended Senate Bill No. 200, approved April 6, 1933, the Board of County Commissioners has decided it necessary to furnish direct housing relief. A school district, and likewise a municipality within the county, have as a portion of their tax sinking fund requirements to meet funded indebtedness. Will you kindly construe Amended Senate Bill No. 200, on the following points:
>
> (1) Shall the amount paid for direct housing relief in any political subdivision of the county be retained at a settlement from all of the taxes collected in such political subdivision, and
>
> (2) If such amount shall be retained from all the taxes of such political subdivision, what method, if any, is there provided to care for the sinking fund requirements of such political subdivision in the county?"

Inasmuch as Amended Senate Bill No. 200 enacted by the 90th General Assembly has been, and is the subject of numerous inquiries, it might be well to call attention to the conditions precedent to the issuance of the vouchers and warrants mentioned in such Act. The legislature has laid down certain prerequisites which must exist before the vouchers referred to in the Act may be issued:

First, no voucher may be issued for rent accruing or becoming due prior to the effective date of the act. (See Section 5.)

Second, no voucher may be issued to any landlord unless he shall have agreed to accept it in payment of rent (the landlord cannot be compelled to accept it.) (See Section 3.)

Third, no voucher can be issued to any landlord, even though he shall have agreed to accept it, unless the holder of the first mortgage on the property occupied by the indigent, if any, shall agree not to foreclose on the property, so long as the property is occupied by the indigent person, without giving thirty days notice of his intention so to do, and shall endorse such fact on the voucher. (See Section 3.)

Fourth, the property for which the warrant is issued, must be occupied by the indigent person. (See Section 1.)

Fifth, the commissioners shall have decided that direct housing relief is necessary. (Section 1.)

Sixth, no voucher can be issued until the commissioners shall have determined that the indigent person is entitled to such relief. (Section 1.)

In this opinion, I have assumed that these prerequisites have been found to exist, and am predicating my opinion herein on such assumption. I am not herein

discussing the questions answered by my opinion No. 1142, rendered under date of July 26, 1933.

Your particular inquiry arises by reason of certain language contained in Section 1 of the act, viz., "the county commissioners of any county are authorized to appropriate the sum that said commissioners decide is necessary for the purpose of direct housing relief to indigent persons." Later, in the same section, is the following language: "At each semi-annual settlement between the treasurer and the auditor, the warrants that have been presented for the payment of taxes as herein provided shall be entered on a book provided by the auditor who shall deduct from each taxing subdivision the portion of the tax which is represented by said warrants and in making the settlement with each taxing subdivision amounts so deducted shall be entered upon the same as taxes withheld for direct housing relief." There is at least an apparent ambiguity in each of such sentences. Thus, in the first sentence above quoted, the language is not specific as to whether the sums to be appropriated are to be appropriated from the relief fund of the county or from the aggregate relief funds of all taxing subdivisions within the geographical limits of the county. Nor is the language specific as to whether the sum to be appropriated by the county commissioners is to be appropriated from the general fund of the county, from the relief or from the undivided general tax funds collected by the county treasurer. There is likwise no specific provision as to what is to become of the sum so appropriated after it is appropriated. As I have above stated, there is at least an ambiguity in the language of such section.

An ambiguity is defined, to use the language of Marshall, Chief Justice, in *Caldwell* vs. *State,* 115 O. S. 458, 460:

> "An ambiguity is defined as doubtfulness or uncertainty; language which is open to various interpretations or having a double meaning; language which is obscure or equivocal."

There is likewise a patent ambiguity in the second sentence above quoted from paragraph 1 of such act. Thus the language is that the county auditor "shall deduct from *each* taxing subdivision *the portion of the tax which is represented by such warrants.*" Such language, if construed literally, would mean that the county auditor was to withhold from each taxing subdivision the aggregate amount of the tax warrants received by the county treasurer in payment for taxes. A somewhat less literal interpretation would grant to the county treasurer the authority to withhold from "each taxing subdivision" in which the particular taxable property may have a tax situs. If either of such interpretations were the intent of the legislature there would be retained by the county treasurer as many times the amount of the tax funds as there were taxing subdivisions within the district. Such interpretation would lead to an absurdity, which is never to be presumed. It would be almost absurd to say that it was the intent of the legislature that the county treasurer should retain from a school district the amount of such warrants, from the county the amount of such tax warrants, from the city or village the amount of such tax warrants, and it would be even more absurd to say that he should retain from "each" taxing subdivision within the geographical limits of the county the amount of such funds without at the same time making some provision for the disposition of such funds so retained.

The cardinal rule of interpretation of statutes is to ascertain the will and meaning of the legislative body. To this rule all other rules of interpretation are

subordinate. It is ordinarily stated that this intent is to be sought primarily from the language of the statute, not from any particular language, but from the statute as a whole. As stated by Spear, J., in *State* vs. *Rouch,* 47 O. S. 478, 485:

> "In giving construction to a statute all its provisions must be considered together. We must endeavor to get at the legislative intent by a consideration of all that has been said in the law, and not content ourselves with partial views, by isolated passages, and holding them alone up to criticism. What is the whole scheme of the law? What object did the legislature intend to accomplish?"

(See also *Powell* vs. *State ex rel. Fowler,* 84 O. S. 165, 175.)

When the language of a statute is clear, courts have no right to construe it in any manner, yet when the language of the statute is ambiguous, the duty of the court is to examine its purpose and to give it such construction, if possible, as will carry out its evident purpose. *Cochrel* vs. *Robinson,* 113 O. S. 526; *Cleveland Trust Co.* vs. *Hickox,* 32 O. App. 69.

The evident purpose of such act is to give to the board of county commissioners power to grant housing relief to indigent persons in addition to that theretofore possessed.

In Section 2 of Amended Senate Bill No. 4, enacted by the 89th General Assembly, First Special Session (114 O. L. pt. 2, 17) the "poor relief" authorized to be administered by the county commissioners is summarized as follows:

> "'Poor relief', in the case of a county, shall mean the payment of mothers' pensions allowed, or to be allowed, by the juvenile court under Sections 1683-2 to 1683-9 inclusive, of the General Code; soldiers' relief as provided in Sections 2930 to 2941, inclusive, of the General Code; the furnishing of temporary support and medical relief to non-residents pursuant to Sections 3476 to 3484-2 of the General Code; and the maintenance of a county home and the children's home, and the expense of maintaining children in private homes incurred, pursuant to Sections 3095 to 3096 of the General Code; and the furnishing of direct and work relief by county commissioners under the provisions of Section 8 of this act."

Section 6 of such act directs that the tax funds allocated to a county, from the proceeds derived from the tax levied by such act shall be held in a special fund for the payment of bonds that may have been issued for poor relief but any excess over that needed for the payment of principal and interest on such bonds may be used for poor relief.

Section 11 of such act also specifically authorizes the county commissioners to appropriate any surplus of the county's share of intangible property taxes to poor relief, as above defined.

Amended Senate Bill No. 3 enacted by the 89th General Assembly, authorizes the diversion of gasoline tax funds for poor relief. Similarly, Amended Senate Bill No. 61 of the 90th General Assembly.

From the language of the entire act No. 200, in view of the evident purpose of such act, it would appear that the legislative intent was to authorize the county commissioners to direct the acceptance of warrants by the county treasurer in payment of general taxes as distinguished from special assessments, subject to the limitations expressed in the act or as hereinafter set forth.

Section 1 of Amended Senate Bill No. 200, limits the amount of the voucher to be issued monthly, to one-twelfth of the general tax "without including special assessments" but not to exceed ten dollars per month. Although ambiguity may exist in the language of the act it does not exist in the language fixing the limit of the vouchers to be issued. Such language is clear. There is no language in the other parts of the act which casts a doubt as to its meaning or which would indicate that the legislature intended its language to have any other meaning than the general and ordinary connotation of the words used. As stated in the fourth branch of the headnotes of the case of *Refling* vs. *Burnet, Com'r.*, 47 Fed. 2d, 859:

> "Court, in construing statutes, must presume legislative body understood accepted meaning of words."

The generally accepted meaning of the phrase "taxes * * without including special assessments" is to include all taxes other than special assessments, that is, all general taxes. The tax levied for bond retirement and interest on bonds is included within such term as used in the "Uniform Tax Levy Law" (§§5625-1 et seq. General Code.)

Such being the generally accepted meaning of the language, and there being no other provisions in the act which would indicate that the legislature used the words in a different sense, I might well use the language of Marshall, C. J., in the case of *Stanton* vs. *Realty Co.*, 117 O. S. 345, 349:

> "It is a general rule of interpretation of statutes that the intention of the legislature must be determined from the language employed, and, where the meaning is clear, the courts have no right to insert words not used, or to omit words used, in order to arrive at a supposed legislative intent, or where it is possible to carry the provisions into effect according to the letter."

Or as stated in the first paragraph of the syllabus of *D. T. Woodbury & Company* vs. *Berry*, 18 O. S. 1:

> "Where the words of a statute are plain, explicit and unequivocal, a court is not warranted in departing from this obvious meaning, although from considerations arising from outside of the language, it may be convinced that the legislature intended to enact something different from what it did, in fact, enact."

I am, therefore, constrained to answer your inquiry in the affirmative.

From a reading of the entire act, it readily appears that the legislature has considered the undivided real property tax fund in the hands of the county treasurer as a unit. I am unable to find any language in such act which purports to provide for the situation where the authorized receipt of housing relief warrants by the county treasurer includes such receipt in payment of taxes for sinking fund requirements of a municipality or other political subdivision.

You will note that I have assumed herein the constitutionality of Amended Senate Bill No. 200, as in my opinion No. 1142, for the reason that I consider such question to be one for the courts to determine, and not within the jurisdiction of this office.

Specifically answering your inquiries, it is my opinion that:

1. Where the county treasurer has received housing relief warrants, pursuant to the authority of the provisions of Amended Senate Bill No. 200 recently enacted, the county auditor is authorized to deduct the amount thereof from all general taxes, as distinguished from special assessments, even though a portion of such general tax may have been levied for the sinking fund requirements of a subdivision.

2. Amended Senate Bill No. 200 makes no provision for the situation, which might possibly be created by the issuance and receipt of housing relief warrants in full payment of all general taxes assessed against a parcel of real property such as the payment to the subdivision of an amount of tax funds necessary for its sinking fund requirements.

Respectfully,
JOHN W. BRICKER,
Attorney General.

1697.

APPROVAL, LEASE TO CANAL LAND IN COSHOCTON COUNTY, OHIO, FOR RIGHT TO OCCUPY AND USE FOR COTTAGE SITE AND AGRICULTURAL PURPOSES.

COLUMBUS, OHIO, October 9, 1933.

HON. T. S. BRINDLE, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—This is to acknowledge receipt of your recent communication submitting for my examination and approval a certain canal land lease in triplicate executed by you to one Walter Scott of New Philadelphia, Ohio. By this lease, which is one for a term of fifteen years and which provides for an annual rental of $12.00, there is leased and demised to said lessee the right to occupy and use for cottage site and agricultural purposes a certain parcel of abandoned Ohio canal lands, including the full width of the bed and embankments thereof, located in Oxford Township, Coshocton County, Ohio, and which is more particularly described in said lease.

This lease is one executed under the authority of Amended Substitute Senate Bill No. 72 enacted April 29, 1931, and which went into effect on the 5th day of August, 1931, 114 O. L. 541.

This act provides for the abandonment for canal purposes of that portion of the Ohio Canal and all lateral canals and canal feeders connected therewith located in Tuscarawas, Coshocton and Muskingum Counties, Ohio, and for the lease and sale of the canal lands so abandoned. Section 8 of said act provides that the owners of tracts of land abutting upon canal lands abandoned for canal purposes by this act shall have a prior right with respect to the lease of such canal lands, provided application therefor is made within a period of ninety days after the expiration of one year from the effective date of said act. You do not state, either by recitals in the lease or otherwise, that the lessee named in this lease is the owner of property abutting upon or contiguous to the parcel of abandoned canal lands covered by this lease. In this situation, I am required to assume as a condition of my approval of the lease either that said lessee is the owner of such abutting property or that the owner or owners of such abutting property did not make application for the lease of this parcel of canal lands within the time prescribed by the section of the act above noted.