vides that "the salaries as herein authorized shall be in full for all services performed for the city." It is then further provided that additional compensation may be paid certain city officers where such city owns a sewage disposal plant or other public utilities. It is to be noted that the city treasurer is not even included among those officers entitled to additional compensation. (1945 Ind. O.A.G. 382, No. 96.)

It was the evident intention of the legislature by Sections 48-1227 and 48-1233 of Burns' 1933 to limit the salary of city treasurers in cities which are not county seats to a salary of $1,800 per year which was to be in full for all services performed for the city, except as such city treasurer might fall within the exceptions provided for in Section 48-1233. Since the city treasurers involved in this question do not fall within any of the exceptions referred to, it is my opinion that they are not entitled to keep and retain as their own the 6% fee for collecting delinquent city taxes provided for by Section 48-6711, and this latter section of the statute to that extent was impliedly repealed by Sections 48-1227 and 48-1233 Burns' 1933.

OFFICIAL OPINION NO. 13
February 19, 1946.

Hon. Milton Matter, Director,
Indiana Department of Conservation,
Indianapolis 9, Indiana.

Dear Sir:

I have your letter of recent date in which you request an official opinion upon the following question:

"Does the Indiana Department of Conservation have power to purchase state park hotel equipment by giving notes for the purchase price payable July 1, 1946, July 1, 1947 and July 1, 1948, which notes should be paid only from funds which accrue in the revolving fund of the Division of Lands and Waters of the Department?

"The Department wishes to purchase the hotel equipment and furniture at McCormick's Creek and
Potawatomi Inn for a purchase price in each case of approximately $30,000.00. The revolving fund referred to as the specific and limited source of payment for the installments of purchase price is the fund into which go all gate admissions and concession fees of the state parks. This fund will be ample to meet the deferred payments at the dates mentioned. The proposed notes and contracts of purchase will give the Department a right to prepay the purchase price at any time and stop the proposed interest of 5%.

Section 12 of Chapter 353 of the Acts of the Indiana General Assembly for the year 1945 provides as follows:

"In addition to the other powers and authority granted to the Indiana Department of Conservation, it shall have the power and authority to acquire, maintain and make available to the public under such rules and regulations as may be established by the department of conservation, public parks and other suitable places for recreation; to construct, rent, lease, license or operate public service privileges and facilities in any state park or parks; to take in the name of the state for the benefit of the public, by purchase, condemnation or devise, lands and rights for public parks; preserve and care for such public parks and, on the approval and direction of the department of conservation and upon such terms as it may determine, acquire such other suitable lands or park properties within the state, as may be entrusted, donated or devised to the state by the United States, or by counties, cities, towns, private corporations or individuals, for the purpose of public recreation, or for the preservation of natural beauty or natural features possessing historic value."

In a recent official opinion of this office to you, dated July 13, 1945 (1945 Indiana O.A.G. No. 64), it was held that the above quoted section provided the procedure for acquiring property by the Indiana Department of Conservation, and that the latter was not required to comply with the lim-

Section 22 of Chapter 60 of the Acts of the Indiana General Assembly for the year 1919, Section 80-724 of Burns' 1943 Replacement, created a special fund known as the "Revolving Fund" in the department of conservation and provided as follows:

"All funds accruing to the use of any division of the department of conservation, other than regular or specific appropriation made by the general assembly, shall be deemed to constitute a revolving fund for the use of the respective divisions, and no part of such fund shall revert to the state treasury at the close of any fiscal year until any such revolving fund credited to the use of any division of the department shall reach the amount of fifty thousand dollars ($50,000), in which event, all sums in excess of fifty thousand dollars ($50,000) shall revert to the state treasury at the end of each fiscal year and shall be added to the general funds of the state."

Under Chapter 353 of the 1945 Acts above quoted, it would seem that the conservation department would have ample authority to acquire the personal property in the manner proposed in your question since it is provided under such statute that the conservation department may acquire property and park facilities upon such terms as it may determine. It further appears from the statute creating the revolving fund that such fund could be used for the purpose of making the payments on this purchase. There remains then the question of whether there are any constitutional limitations or other objections to such a proposed purchase arrangement.

Article 10, Section 5 of the Constitution of Indiana provides as follows:

"No law shall authorize any debt to be contracted, on behalf of the State, except in the following cases: To meet casual deficits in the revenue; to pay the interest on the State Debt; to repel invasion, suppres"
insurrection, or, if hostilities be threatened, provide for the public defense.”

Under the above constitutional provision it has generally been held that where the general credit of the state is pledged and resort may be made to taxation to pay it, such an obligation is a debt within the meaning of the above constitutional provision. However, where an obligation is payable from a special fund, a different rule prevails. The general rule of law on this matter is set forth in 49 American Jurisprudence, Section 67, page 280 as follows:

“Although the cases are not entirely in accord and dissenting opinions have been frequent, it has generally been held that an obligation payable from a special fund created by the imposition of fees, penalties, or excise taxes, and for the payment of which the general credit of the state is not pledged and resort may not be had to property taxation, is not a debt within the meaning of constitutional debt limitations. Such a limitation applies solely to that arising from a general levy and not excise taxes.”

The decided cases in Indiana follow this general rule.

Underwood v. Fairbanks, Morse & Co. (1933), 205 Ind. 316, 326;
Edwards v. Housing Authority of City of Muncie (1939), 215 Ind. 330, 337;
Bennett v. Spencer County Bridge Commission (1937), 213 Ind. 520, 525-526;
Letz Mfg. Co. v. Public Service Commission of Ind. (1936), 210 Ind. 467, 476;
Jefferson School Township v. Jefferson Township School Building Company (1937), 212 Ind. 542, 547;
Fox v. City of Bicknell, et al. (1923), 193 Ind. 537, 540-541.

In the case of Underwood v. Fairbanks, Morse & Co. (1933), 205 Ind. 316, it appeared that the town of Oxford, Indiana, entered into a contract with Fairbanks, Morse &
Co. for the purchase of engines, pumps, generators, and appliances and for the installation of the same in the municipal light and water plant owned by the town. The terms of the purchase were $6,000 down and $36,000 payable in equal installments of $600 each to be evidenced by 60 pledge orders which were payable only from the net revenue of the municipal plant. It was held by the Supreme Court of Indiana that such an arrangement did not create a debt against the town in violation of article 13 of the Indiana Constitution. The court said at page 326 and 327 as follows:

“It has been held that 'obligations payable out of a particular fund, and for which the fund only, and not the municipality is liable are not within the inhibition of Article 13.' City of LaPorte v. Game- well Co. (1896), 146 Ind. 466, 45 N. E. 588, 35 L. R. A. 686, 58 Am. St. Rep. 359; Quill v. City of Indianapolis (1891), 124 Ind. 292, 23 N. E. 788, 7 L. R. A. 681. * * *

“The contract in question, among other things, provides: 'It is understood and agreed by and between the parties hereto that each pledge order as herein before mentioned shall contain the following paragraph: “This is not a general obligation of the town of Oxford, Indiana, but a special obligation payable only from the net revenues of the town's light and water plant.”' So it is evident to our mind that the deferred installments as evidenced by the pledge orders are not obligations of the town and can not be payable from the taxes of the general funds of said town. They can only be paid from 'the net revenues of the town's light and water plant.'”

Also in the case of Edwards v. Housing Authority of City of Muncie (1938), 215 Ind. 330, the Indiana Supreme Court held that where the City of Muncie created a housing authority for the purpose of slum clearance and issued bonds payable from the revenues of such a project, and not payable out of taxes or any other funds or properties, such an arrangement is not the obligation of a city and did not violate Section 1 of Article 13 of the Indiana Constitution.
In speaking of the purpose of the constitutional provision in question, the court said at page 338 as follows:

"* * * The purpose of the constitutional provision is to limit the public indebtedness, which would be a burden upon the public and payable out of taxes or by the sale of public property. The project here authorized contemplates a benefit to the public without any expenditure of public funds other than these incidental amounts involved in the first year's administrative expenses of the authority and in furnishing the usual highway, sanitary, and policing services to the territory within the authority. But such expenses are current expenses, payable currently. The property of the housing authority is acquired with the funds raised by the bond issue and other contributions without cost to the public, the state, or any body politic, and at most the bondholders may take back the property or income from the property which they have provided. The scheme in nowise involves an evasion of the spirit or purpose of the constitutional provision."

I also call your attention to a recent official opinion of this office and reported in 1944 Ind. O. A. G. page 362 which was concerned with the operations of the state and local armory boards. At pages 366 to 368 the history of the State Armory Board and its methods for acquiring armories by a deferred purchase arrangement were reviewed. It is pointed out in that opinion that over 40 armories were built in the State of Indiana on a deferred purchase arrangement which had been many times approved by the Attorneys General of Indiana.

In view of the fact that this purchase arrangement will be completed within three years it would not fall within the public policy prohibition against long term contracts which was recently discussed in an official opinion of this office to you on October 2, 1945, No. 110.

Based upon the foregoing reasons and authorities it is my opinion that the Indiana Department of Conservation has the power to purchase the state park hotel equipment by giving notes for the purchase price payable July 1, 1946,
July 1, 1947, July 1, 1948, which notes shall not be an obligation on behalf of the state, but are to be paid only from funds accruing in the revolving fund of the Division of Lands and Waters of the department.

OFFICIAL OPINION NO. 14

February 20, 1946.

Hon. C. Clifton, Director,
State Printing Board,
State House,
Indianapolis, Indiana.

Dear Sir:

I have your letter of January 23, 1946 which reads as follows:

"The Board of Public Printing is making an effort to eliminate printing by various departments and institutions of pamphlets which are not absolutely essential, which are duplication of matters published under some other form, and which do not have any great interest to the general public.

"Since the last session of the Legislature, many departments have requested publication in pamphlet form of the laws pertaining to their departments. Such publications are a duplication of the Acts.

"The State Printing Board has an appropriation of $35,000 per year in which some twenty governmental departments participate. The balance of the departments operate under their own budgets.

"The Printing Board would like to have an opinion as soon as possible as to whether it has the authority both in the case of the State appropriation and the appropriations of individual departments to refuse orders for the publications of such pamphlets if, in its discretion, they are not essential and the expense involved does not justify the printing of same."