ter G. Warren & Company of Chicago, and the commercial fixtures of C. L. Smith Electric Company of Indianapolis, and requesting further directions as to the method of further pro-
cedure.

Replying, I desire to say that in my opinion you should now advise C. L. Smith Company of your selections and the price for which you can obtain same. You should also advise Walter G. Warren & Company and C. L. Smith Electric Company of the selection of their designs at the bid price and that same are to be furnished C. L. Smith Company on its account. It will then be the duty of C. L. Smith Company, under its con-
tract with the commission, to enter into proper contracts with the persons furnishing the fixtures and proceed with their installation.

TAX COMMISSION: Whether leases are taxable under the
General Intangibles Tax Act.

State Board of Tax Commissioners,
231 State House,
Indianapolis, Indiana.

Gentlemen:

I have at hand your letter and inquiry of date June 8th requesting an official opinion as to whether or not leases, with or without option to purchase, are taxable under chapter 81 of the Acts of 1933, commonly known as the General Intangibles Tax Act.

A careful examination of said chapter 81 and particularly section 1, subdivision (a) thereof, which subdivision defines the term “intangible” or “intangibles,” discloses that said sec-
tion does not use the term “lease” specifically. The only terms used which might apply to or define the term “lease” are “written contracts for the payment of money” and “certifi-
cates or other instruments evidencing an interest in property.”

The question, therefore, presents itself whether or not the legislature intended that the terms “written contracts for the payment of money” and “certificates or other instruments evidencing an interest in property” would include the term “lease.”

It will be noted that the legislature did include as intan-
gibles “mortgages,” “chattel mortgages,” “bills of sale,” and
"conditional sales contracts," all of which are common, well known and much used terms. Surely the term "lease" is as common, well known and as much used as any of the other terms therein contained. And it would seem that the term "lease" being so well known, well understood and common, that had the legislature intended to classify a lease and to subject the same to the payment of a tax, it would have included the term "lease" in said act as an intangible.

It is also a well known canon of construction that in placing a construction upon words, phrases or terms used in conjunction with other terms, that such terms will be construed in the light and in the class of such other terms or phrases so classified together.

Said subdivision (a), beginning with the term "written contracts for the payment of money," reads as follows:

"Written contracts for the payment of money, excepting contracts for personal services and/or for manufacturing or processing merchandise."

Certainly some reason existed for the excepting of contracts for personal services and for manufacturing or processing merchandise. A contract for the rendering of personal services, I believe, is excepted for the reason that such a contract does not constitute a credit until the personal services are performed; in other words, there is no credit until the services have been rendered. In a like manner, contracts for the manufacturing of merchandise do not become a credit until the goods are manufactured and delivered. In a contract for the processing of merchandise, there is no credit until the merchandise is sold and delivered.

I believe from a study of the various things termed as "intangibles" that this is an act which intends to tax "credits," and that "written contracts for the payment of money" as described in said act means enforceable contracts which are "credits."

There is a striking similarity between such contracts and a contract of leasing, for a lease does not become a credit until the rental becomes due, or past due. So considering and construing said terms together as they appear in said act, I believe that it was the intention of the legislature to tax credits only.

I do not believe that a lease is a "certificate or other instru-
ment evidencing an interest in property" as contemplated by
the act.
I am, therefore, answering your question in the negative,
that leases and leases with options to purchase, are not subject
to taxation under chapter 81 of the Acts of the Indiana Gen-
eral Assembly for the year 1933.

CONSERVATION DEPARTMENT: Whether fish and game
laws of Indiana apply to privately owned ponds.

July 5, 1933.

Hon. Kenneth M. Kunkel,
Director, Fish and Game Division,
Conservation Department,
Indianapolis, Indiana.

Dear Sir:
I have before me your letter of June 30, 1933, asking my
opinion upon the following matters:

"Do the fish and game laws of the state apply to
private ponds?
"We would appreciate your opinion in the following
case: The owner of a certain lake, which lake is pri-
vately owned, charges a fee for fishing. Do our fish
and game laws apply to the persons so authorized by
the owner, when fishing in this lake, in regard to li-
cense, bag limit, size and closed season?"

It is generally held that a state has the right to regulate the
catching of fish in any "public waters" of the state, or in any
private ponds or private bodies of water which are connected
with "public waters" of the state. But the legislature cannot
regulate the taking of fish from strictly private waters which
do not have such connection with "public waters" of the state
as to permit the passage of fish from one to the other.

Milton v. State, 221 S. W. 461;
State v. Roberts, 59 N. H. 256;
26 Corpus Juris, p. 624.

A private pond, as distinguished from "public waters" of
the state, has been defined as "a body of water wholly upon
the lands of a single owner, or a single group of joint owners