

lature, in providing in Section 6293, supra, that truck equipment should be included as a part of the taxable weight, did not differentiate between equipment regularly used and that which is used only occasionally.

Consequently, I am constrained to the view that side boards, whether used permanently or temporarily, should be included in determining the taxable truck weight. If the owner of a commercial motor vehicle has work which requires additional truck equipment, the weight of which was not included in the weight of the vehicle when the license was procured, then he should have the additional weight determined and pay the tax thereon before using said equipment.

In view of the above and in specific answer to your inquiry, I am of the opinion that the weight of side boards attached to a truck should be included in determining the amount of the motor vehicle license tax whether such side boards are used permanently or temporarily.

Very truly yours,

THOMAS J. HERBERT,  
*Attorney General.*

1433.

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ABSTRACT OF TITLE, DEED, ETC., PURCHASE BY STATE FROM ISIAH HARRISON, EXECUTOR, ESTATE, JOHN H. HARRISON, 3 ACRES LAND, 2477 LISLE ROAD, CLINTON TOWNSHIP, FRANKLIN COUNTY, USE, OHIO STATE UNIVERSITY.

COLUMBUS, OHIO, November 15, 1939.

HON. CARL E. STEEB, *Secretary, Board of Trustees, Ohio State University, Columbus, Ohio.*

DEAR SIR: This is to acknowledge the receipt of your recent communication with which you submit for my examination an abstract of title, executors' deed, contract encumbrance record No. 63 relating to the purchase by Ohio State University of a parcel of land from Isiah Harrison as Executor of the Estate of John H. Harrison, deceased, late of Franklin County, Ohio, and which parcel of land is more particularly described as follows:

"Being 3 acres of ground located on the west side of the Scioto River and Olentangy Free Turnpike Road, now known as Lisle Road, about 1000 feet north of West Lane Avenue, and being more particularly known as 2477 Lisle Road, the residence of John H. Harrison, Clinton Township, Franklin County, Ohio."

Upon examination of the abstract of title of the above described property, which abstract is certified by the abstracter under date of September

25, 1939, and upon my personal examination of all the proceedings in the Estate and Land Sales Proceedings of John H. Harrison, deceased, I find that the said John H. Harrison at the time of his demise was possessed of the record title to the lands described above by metes and bounds and that the Estate of said John H. Harrison is now being probated in the Probate Court of Franklin County under estate number 85489 and is found in Administration Docket No. 44 at page 376 of the probate records.

I find from an examination of said court records that land sales proceedings were brought to sell the lands, subject of this opinion, and the action in this cause is based on valid debts of the decedent and is in accordance with the statutes made and provided in such cases.

In connection with the administration of the estate I further find a suit now pending in the Court of Common Pleas of Franklin County, Ohio, numbered 157,303 on the dockets of said court wherein Irvin Elmer Harrison has instituted a suit attempting to set aside the will of John H. Harrison, deceased. In such cases Section 10509-22 of the General Code of Ohio provides in substance for the preservation of all of the assets of the estate pending the final adjudication of the suit and the executors' bond in the land sales proceedings is sufficient guarantee for persons interested in all the proceedings. It has also been orally agreed and consented to by all counsel interested in this matter that no distribution of the monies paid by The State of Ohio shall be made by Isiah Harrison, as Administrator of the Estate of John H. Harrison, deceased, until the will contest suit is finally adjudicated.

I note from an examination of the abstract a mortgage of record in favor of The Buckeye State Building and Loan Company, of Columbus, Ohio, and said lien is of record in mortgage book 873 at page 295 of the mortgage records of Franklin County, Ohio, and I am assuming this and other valid debts listed in the schedule will be promptly paid and the distribution of any or all of the devisees or heirs will be held subject to final adjudication of the will contest suit.

While the County Treasurer was not a party in the land sales proceedings I desire to call to your attention the fact that there are undoubtedly current tax liens of record and which amounts should be computed by you and deducted from the purchase price at the closing of this particular transaction.

The Executors' Deed submitted for examination I find recites all the elementary and vital proceedings of the land sales proceedings, necessary in such an instrument, and said deed is in proper legal form and duly executed according to law, and upon delivery of same the State of Ohio will hold and own an undefeasible fee simple title to the lands and premises described in said deed, together with all the privileges and appurtenances thereunto belonging.

Upon examination of contract encumbrance record No. 63, I find

that the same has been properly executed and that there is shown thereby a sufficient balance in the Interest or Endowment Fund to the credit of Ohio State University to pay the purchase price of this property, which purchase price is the sum of \$3,250.00.

Subject to the exceptions herein noted, I am approving the abstract of title and other files submitted in this connection and I am herewith forwarding the same to you for your further attention in closing this transaction for the purchase of this property.

Respectfully,

THOMAS J. HERBERT,  
*Attorney General.*

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1434.

SALE—STATE TO DON McCUNE, DESIGNATED HOCKING CANAL LAND, PROXIMITY LOT 1397, NELSONVILLE, ATHENS COUNTY.

COLUMBUS, OHIO, November 15, 1939.

HON. CARL G. WAHL, *Director, Department of Public Works, Columbus, Ohio.*

DEAR SIR: You have submitted for my examination and approval a transcript of your proceedings relating to the sale to one Don McCune of Nelsonville, Ohio, of a parcel of abandoned Hocking Canal lands in said city which is more particularly described as follows:

“Beginning at a point, same being the intersection of the southerly property line of the Hocking Canal and the westerly line of Lot No. 1397; thence northeasterly along the westerly line of Lot No. 1397 produced 3.8 feet to a point, same being the intersection of the westerly line of Lot No. 1397 produced and the southerly line of Parkway Drive; thence southeasterly along the southerly line of Parkway Drive, fifty (50') feet to a point, same being the intersection of the southerly line of Parkway Drive and the easterly line of Lot No. 1397 produced; thence southwesterly along the easterly line of Lot No. 1397 produced 3.6 feet to a point, same being the intersection of the southerly property line of the Hocking Canal and the easterly line of Lot No. 1397; thence westerly along said canal property line, fifty (50') feet to the point of beginning and containing one hundred eighty-five (185) square feet, more or less.”

Upon an examination of your proceedings relating to this sale I find the authority now reposed in you with respect to the sale of these lands