

3906.

MOTOR VEHICLES—NO AUTHORITY FOR THE APPOINTMENT OF DEPUTY CLERK OF COURTS TO RECEIVE BILLS OF SALE OUTSIDE OF CLERK'S OFFICE—COMMISSIONER OF MOTOR VEHICLES MAY APPOINT DEPUTIES OUTSIDE OF COUNTY AUDITOR'S OFFICE.

SYLLABUS:

1. *There is no authority under existing law to authorize a clerk of courts to appoint a deputy to receive bills of sale outside of the clerk's office.*

2. *Section 6291-1 as amended in 111 O. L., 460, expressly authorizes the commissioner of motor vehicles to appoint deputies outside of the county auditor's office at such places in the county as he sees fit.*

COLUMBUS, OHIO, December 22, 1926.

Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

GENTLEMEN—In your recent communication you request my written opinion on the following:

“Question 1: May a clerk of the courts legally appoint a deputy to receive and file bills of sale and sworn statements of ownership of automobiles outside of the county seat and outside of the clerk's office?”

Question 2: May a county auditor appoint a deputy outside of his office to issue automobile licenses at places other than the county auditor's office?”

It seems to be the desire of the parties submitting the inquiry to you that some method be worked out whereby a deputy clerk of courts may be appointed outside of the clerk's office, and outside of the county seat, for the purpose of aiding in the filing of bills of sale.

In connection with your inquiry you mention an opinion of the Attorney-General found in Reports for the year 1921, at page 568 wherein it was proposed to do the same thing with reference to appointing deputies to issue hunters' licenses that is now proposed to be done with reference to the filing of bills of sale. In this opinion it was held:

“Hunters' licenses should be issued from the office of the clerk of courts and not from a private place of business, since the placing of a deputy in a private place of business, to issue hunters' licenses, would be against public policy and unauthorized by law.”

In examining the provisions of the bill of sale registration law, I find no special authority authorizing the practice which is desired. In some instances the legislature has made provision for such accommodation, such as the distribution of automobile tags.

However, until such special legislation has been enacted, it is believed that the principle enunciated in the opinion heretofore referred to must obtain. You are therefore advised that under existing law there is no authority for the clerk of courts to station a deputy outside of the clerk's office to accept for filing bills of sale.

It is believed that this will dispose of your first inquiry.

In considering your second question, it will be necessary to examine the provisions of section 6291-1 which provide:

"The commissioner of motor vehicles shall designate the county auditor and one or more persons in each county to act as deputy commissioners, who shall accept applications for the annual license tax, and assign distinctive numbers in the same manner as the commissioner of motor vehicles. Such deputy commissioners shall be located in such cities or villages in the county as the commissioner sees fit. For the purpose of facilitating the distribution of license tags, the commissioner may provide for the establishment of branch offices in cities having a population of one hundred thousand or over according to the last federal census.

Duties; bond. The commissioner shall assign to each deputy commissioner a series of numbers sufficient to supply the demand at all times in such community, and shall keep a record in his office of the numbers within the series so assigned. Each deputy commissioner shall be required to give bond, the form and amount of which shall be prescribed by the commissioner of motor vehicles.

The deputy commissioners shall keep a file of each application and register such motor vehicle with the name and address of the owner thereof."

An analysis of this section will disclose that the commissioner of motor vehicles is given specific power and authority to designate such deputies and determine the location in the county. In considering this section we have the opposite from the statutes relative to the filing of the bills of sale. In other words, the express authority of the legislature has been given in the latter case, whereas the same has not been given in the former.

Respectfully,
C. C. CRABBE,
Attorney-General.

3907.

DISAPPROVAL, BONDS OF CITY OF HAMILTON, BUTLER COUNTY,
\$3,254.80.

COLUMBUS, OHIO, December 22, 1926.

Re: Bonds of City of Hamilton, Butler County, \$3,254.80.

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

GENTLEMEN:—The affidavits of the publishers, giving notice of the sale of bonds for the above bond issue are both to the effect that said notices were published for four weeks consecutively, commencing on October 12, 1926. The notice recited that the bonds were to be sold on November 4, 1926, twenty-three days after the first publication. In the case of *State vs. Kuhner and King*, 107 O. S., 406, the court held as follows:

"The requirement of section 1206, General Code, that 'the state highway commissioner shall advertise for bids for two consecutive weeks,' is mandatory, and the contract entered on June 14 for advertisement in two weekly newspapers of the county on June 6th and June 13th is invalid."

In applying the foregoing decision to the provisions of section 3924 of the General Code, which prescribes the method of publication of the notice of the sale of bonds,