

motor bicycle or a motorcycle shall be eight dollars for the calendar year 1925, and four dollars for each year thereafter; and for *each trailer* or semi-trailer two dollars and fifty cents. \* \* \*

It will be observed from the above section that this is a "taxation" measure. The title to the act is:

"To amend Sections 6290, 6292, 6293 and 7249 of the General Code, relative to the taxation and regulation of the operation of motor vehicles on the public roads and highways of this state."

The above act, being expressly declared as a taxation measure, is to be so treated and construed. It is also to be treated as a regulatory provision.

In addition to the information contained in your letter, we are later informed that the company in question is a storage company operating moving vans with trailers attached, and that each and all of the various trailers in turn make their appearance upon the public highways.

The facts disclose that the custom of this particular company has been to transfer the license plates indiscriminately from the trailer in the yard to the trailer on the highway as it goes out on to the highway, and on the particular time in question, one of the trailers was operated upon the highway without the license plate thereon.

One of the purposes of the license plate is for identification. If the indiscriminate transfer of license plates from one trailer to another were permissible, then the means of identification would in a very large measure be destroyed. In a given case, if a certain trailer were to figure in an accident or some untoward event on the highway, and should be removed to the yard, and its license plate be removed and placed on another trailer, it might become very difficult to identify the particular trailer that figured in the event.

It is, therefore, my opinion that an owner operating a fleet of trailers, each one of which at some time or times is operated on the public highway, is required to provide separate license plates for each of said trailers, and he may not indiscriminately transfer the trailer plates from the idle trailer in the yard to the trailer entering the highway.

Respectfully,  
EDWARD C. TURNER,  
*Attorney General.*

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50.

DEPUTY VILLAGE MARSHAL—MAY SERVE AS TEMPORARY STATE PROHIBITION AGENT—HOW SALARY MAY BE PAID FROM STATE TREASURY—OFFICER MUST BE AVAILABLE AT ALL TIMES.

**SYLLABUS:**

1. *A deputy village marshal may be appointed and may serve as temporary state prohibition inspector.*
2. *A deputy village marshal who has been appointed temporary prohibition inspector, may be paid a salary from the state treasury for his services as temporary prohibition inspector in any county in the state other than the one in which the village of which he is such a deputy is situated.*
3. *A deputy village marshal, who has been appointed temporary prohibition in-*

*spector, cannot be paid a salary from the state treasury for his services as temporary prohibition inspector in the county in which the village of which he is such a deputy is situated, but only such compensation as he would be entitled to receive as deputy marshal.*

4. *The duties of a deputy village marshal require that he be available at all times. Before absenting himself, he should obtain the consent thereto from his village authorities.*

COLUMBUS, OHIO, February 4, 1927.

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

GENTLEMEN:—I am in receipt of your inquiry of January 26, 1927, which reads as follows:

“May a deputy marshal of a village who receives a salary from such village be legally paid a salary from the state treasury for services as a temporary state prohibition inspector at the same time?”

When the council of a village makes provision by ordinance for the appointment of a deputy marshal within the village, the mayor of said village may, by virtue of Section 4384 of the General Code of Ohio, appoint such deputy marshal, whose powers and duties are set out in Sections 4385 and 4386 of the General Code, pertinent parts of which are as follows:

“Sec. 4385. \* \* \* The marshal, the deputy marshals, policemen or night watchmen under him shall have the powers conferred by law upon police officers in all villages of the state, and such other powers not inconsistent with the nature of their offices as are conferred by ordinance.”

“Sec. 4386. \* \* \* He shall arrest any person in the act of committing any offense against the laws of the state or the ordinances of the corporation, and forthwith bring such persons before the mayor or other competent authority for examination or trial, and he shall receive and execute any proper authority for the arrest and detention of criminals fleeing or escaping from other places or states.”

The jurisdiction of mayors of villages and the duties of marshals are set out in Section 4542, in this language:

“In felonies, and other criminal proceedings not herein provided for, such mayor shall have jurisdiction and power throughout the county, concurrent with justices of the peace. The marshal shall execute and return all writs and process to him directed by the mayor, and shall, by himself or deputy, attend on the sittings of such court, to execute the orders and process thereof, and to preserve order therein. His jurisdiction, and that of his deputies, in the execution of such writs and process, in criminal cases, and in cases of violation of ordinances of the corporation, shall be co-extensive with the jurisdiction of the mayor therein, and in the execution of writs and process and the taxing of costs thereon shall be governed by the laws pertaining to constables.”

Further duties of the marshal and his deputies are contained in Section 13492, as follows:

"A sheriff, deputy sheriff, constable, marshal, deputy marshal, watchman or police officer, shall arrest and detain a person found violating a law of this state, or an ordinance of a city or village, until a warrant can be obtained."

By the provisions of Section 4387, General Code, it is provided that the marshal shall have like powers and be subject to like responsibilities as constables and for services actually performed by himself or his deputies, there shall be taxed the same fees and expenses as are allowed constables.

Section 3340 is as follows:

"Each constable shall apprehend, on view or warrant, and bring to justice, all felons, disturbers and violators of the criminal laws of this state, and suppress all riots, affrays, and unlawful assemblies, which may come to his knowledge, and, generally, keep the peace in his proper county."

It will be noted that by virtue of Sections 3340 and 4542 the jurisdiction of the marshal of a village and his deputies is co-extensive with the county in which the village is located, and that their jurisdiction is limited to that county.

Provision is made by Section 6212-21 of the General Code for the appointment by the Governor of Ohio of a state prohibition commissioner, whose jurisdiction extends over the entire state, with authority to appoint a deputy commissioner, inspectors, deputy inspectors and temporary inspectors. The part of Section 6212-22, which provides for the appointment of temporary inspectors, reads as follows:

"The commissioner may appoint such temporary inspectors as the emergency demands, who shall hold office at the pleasure of the commissioner and who shall have only the powers and authority delegated to them in their appointment and not inconsistent with this act. The number of such temporary inspectors shall not exceed that fixed by the governor. They shall be under the control of said commissioner and shall receive such compensation as may be fixed by him, not to exceed ten dollars per day when actually employed, and shall be allowed and paid their actual and necessary expenses."

The duties of such prohibition commissioner and his appointees as set out in Section 6212-24 are diligently to enforce the laws of the state having to do with the prohibition of the liquor traffic.

It will be observed that deputy inspectors under the prohibition commissioner may be appointed, granted powers and charged with duties outside the county in which they reside, and for the performance of such duties they may be paid such compensation as the prohibition commissioner may fix within the limit specified.

If the deputy marshal of a village were so appointed and the duties of his position as such deputy marshal left him sufficient time to perform the duties of temporary prohibition inspector, I see no reason why he cannot hold both positions. However, his duties as deputy marshal require of him that within his county he shall enforce all laws, including those having to do with the prohibition of the liquor traffic, and for the performance of the duties of prohibition inspector within such county he cannot be paid a salary from the state treasury while he is holding the position of deputy village marshal, but only such compensation as he would be entitled to receive as deputy village marshal.

Answering your question, it is my opinion that a deputy village marshal may be appointed and may serve as temporary state prohibition inspector, but, while he may be paid a salary from the state treasury for his services as temporary prohibition

inspector in any county in the state other than the one in which the village of which he is a deputy marshal is situated, since his jurisdiction as deputy village marshal in the execution of writs and process on criminal cases is co-extensive with the county in which the village of which he is such deputy is situated, and since as such deputy marshal he is required to enforce all laws, including those having to do with the prohibition of the liquor traffic, he cannot be paid a salary from the state treasury for his services as temporary prohibition inspector in the county in which the village of which he is a deputy marshal is situated, but only such compensation as he would be entitled to receive as deputy village marshal.

The duties of a deputy village marshal require that he be available at all times. Before absenting himself, he should obtain the consent thereto from his village authorities.

Respectfully,  
EDWARD C. TURNER,  
*Attorney General.*

51.

CORPORATION — ARTICLES OF INCORPORATION — AMENDMENT — SECTION 8728-1, G. C., DOES NOT AUTHORIZE SEPARATE CLASS OF NO-PAR COMMON STOCK SUBJECT TO RESTRICTIONS OR QUALIFICATIONS—VOTING POWER.

*SYLLABUS:*

*Section 8728-1 of the General Code does not authorize a corporation to create a separate class of no-par common stock subject to restrictions or qualifications other than with respect to voting powers.*

COLUMBUS, OHIO, February 5, 1927.

HON. CLARENCE J. BROWN, *Secretary of State, Columbus, Ohio.*

DEAR SIR:—This acknowledges your letter of recent date, in which you ask my opinion as to whether you are authorized to accept a certificate of amendment to articles of incorporation under the facts as you present them. The facts may be summarized briefly as follows:

“A corporation now has outstanding 7,500 shares of no par common stock. It proposes to increase the number of shares to 30,000 shares of no par common capital stock, divided into 15,000 shares of Class A stock and 15,000 shares of Class B stock. The Class A stock is to have all of the rights now exercised by the present no par common stock. The Class B stock is to be non-voting and is to have the further qualification that said shares shall not be sold unless and until they are first offered in writing to the president of the company for the benefit of the holders of the Class A stock at a price equal to \$100.00 per share, plus a pro rata share of the undistributed earnings, to be determined in accordance with the formula prescribed by the proposed amendment.”

You will note that this corporation is attempting to make a distinction between the two classes of no par common stock, concerning something other than the question of voting.