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BUSES—OWNED BY UNITED STATES GOVERNMENT—LEASED OR LOANED TO UNIVERSITIES OR COLLEGES, EITHER STATE OWNED OR PRIVATELY OWNED—TRANSPORTATION OF VETERANS, WORLD WAR II, ATTENDING SCHOOL UNDER “G. I. BILL OF RIGHTS”—BUSES ARE “PUBLICLY OPERATED AND USED EXCLUSIVELY FOR PUBLIC PURPOSES”—BUREAU OF MOTOR VEHICLES AUTHORIZED AND REQUIRED TO REGISTER SUCH BUSES FREE AND ISSUE GRATIS LICENSE PLATES.

SYLLABUS:

Buses owned by the United States Government and leased or loaned to universities or colleges, either state-owned or privately owned, for the transportation of veterans of World War II attending school under the so-called “G. I. Bill of Rights” are “publicly operated and used exclusively for public purposes” so as to authorize and require their free registration and the issuance by the Bureau of Motor Vehicles of gratis license plates.

Columbus, Ohio, May 11, 1946

Hon. Frank M. Quinn, Registrar, Bureau of Motor Vehicles
Columbus 16, Ohio

Dear Sir:

Your request for my opinion reads as follows:

“The United States Government is the owner of buses. Because of the housing shortage housing facilities have been provided some distance from the campuses of several colleges and universities including Ohio State University, Kent State University and Hiram College, for war veterans attending school under the ‘G. I. Bill of Rights’. The buses are loaned or leased to the university or college by the United States Government for the sole and exclusive purpose of transporting such war veteran students between the housing facility and the school for which a ‘fare’ may or may not be charged.

Will you give us your opinion as to whether or not under these circumstances ‘gratis’ license plate registration may be issued?”

Your request raises the question of the correct application of Section 6295 of the General Code of Ohio. Said section reads in part, as follows:

“Motor vehicles, the title to which are in the state or any political subdivision thereof and used exclusively for public purposes shall be registered as provided in this chapter, without charge of any kind; but this provision shall not be construed as exempting the operation of such vehicles from any other provision of this chapter and the penal laws relating thereto.

The registrar of motor vehicles shall accept any application to register a motor vehicle owned by the federal government which may be made by any officer, department, or agent of such government.”

The matter of the interpretation of Section 6295 was discussed extensively in an opinion of my immediate predecessor in 1943 Opinions, Attorney General No. 6467, the syllabus of which reads as follows:

1. The federal government, or any agency thereof which is exercising governmental functions, is entitled to have a motor vehicle registered without charge under the provisions of Section 6295, General Code, provided such vehicle is publicly operated and used exclusively for public purposes.

2. When it is ascertained a motor vehicle is not properly registered, it becomes the duty of the registrar of motor vehicles under the provisions of Section 6290-1, General Code, to take such action as may be necessary to enforce the registration laws.”

Your request states that the United States Government is the owner of the buses in question, and therefore the first requirement for the issuance of gratis plates under Section 6295 is satisfied. It remains to be determined whether within the meaning of said section such buses used as set forth in your request, are “publicly operated and used exclusively for public purposes.” The term “G. I. Bill of Rights” is generally used to apply to the provisions of Title 38, Chapter 12, United States Code. Section 701(f) of Title 38, as amended March 24, 1943 and June 22, 1944 provides as follows:

“Any person who served in the active military or naval forces on or after September 16, 1940, and prior to the termination of hostilities in the present war, shall be entitled to vocational rehabilitation subject to the provisions and limitations of Veterans Regulation Numbered 1 (a), as amended, part VII, or to

education or training subject to the provisions and limitations of part VIII. As amended Mar. 24, 1943, c. 22, Sec. 1, 57 Stat. 42; June 22, 1944, c. 268, Title II, Sec. 400 (a), 58 Stat. 287."

Part VIII of the Veterans' Regulations promulgated pursuant to Chapter 12, Title 38 U. S. C., entitled "Education of Veterans" sets forth the conditions under which and the procedure by which a veteran who served in the active military or naval services on or after September 6, 1940, and prior to the termination of World War II, may receive educational training at the expense of the federal government. Paragraph 9 of Part VIII, reads as follows:

"The Administrator of Veterans' Affairs is authorized and empowered to administer this part, and, insofar as he deems practicable, shall utilize existing facilities and services of Federal and State departments and agencies on the basis of mutual agreements with them. Consistent with and subject to the provisions and limitations set forth in this part, the Administrator shall, from time to time, prescribe and promulgate such rules and regulations as may be necessary to carry out its purposes and provisions."

It appears from your request for my opinion that the buses owned by the United States Government, and leased or loaned to the colleges mentioned, are to be used to effectuate the purposes of the so-called "G. I. Bill of Rights," in providing for educational training for veterans of World War II. It is noted that two of the institutions involved are state-owned and operated and that the third, namely, Hiram College, is a privately endowed and operated college. 1943 Opinions, Attorney General, No. 6467, the syllabus of which is quoted above, points out (page 603) that:

"A leased bus, while still the property of the federal government, when used by a transportation company ceases to be used exclusively for public purposes or to be publicly operated. Under such circumstances, although it may have been properly registered at some previous time under the provisions of Section 6295, supra, this legislative enactment must be construed to mean that the character and type of use should continue throughout registration period."

While recognizing the soundness of the proposition discussed in the opinion quoted above, that the use of a vehicle owned by the United States

Government may not necessarily be a public use, nevertheless, I am constrained to hold that on the facts as set forth in your request for my opinion, the buses involved are used exclusively for a public purpose.

In *State, ex rel., American Legion 1941 Convention Corporation of Milwaukee vs. Smith*, 235 Wis., 443, 293 N. W., 161, the Supreme Court of Wisconsin considered the validity of an act of Wisconsin Legislature which appropriated money for the procurement for the city of Milwaukee of the 1941 American Legion Convention. In holding that such an appropriation was for a public purpose, the court stated at 293 North Western Reporter, 161; at page 167:

“In view of the facts which are stated in the recitals in the Act that the Legion has devoted itself to the maintenance of traditional principles of Americanism and has fostered the highest type of patriotic principles; that its national conventions are annually necessary to ‘afford opportunity to its members to gather and exchange ideas mutually helpful to the preservation of American ideals’; and that these conventions invariably ‘provide patriotic spectacles and inculcate and foster the highest principles of American patriotism’; together with the facts which are alleged in relator’s petition in regard to the origin, organization, membership, character and purposes of the Legion, including the holding of its national conventions, there are evidently abundant grounds for the legislature to conclude, as it apparently did in making the appropriation, that the holding of the national convention in this state with the use of the funds appropriated will serve to inspire, inculcate and promote the highest type of patriotic sentiments and principles of American patriotism and thus aid in the preservation of our American ideals and the perpetuation of our state and national democratic systems of government under our constitutions. These are clearly public purposes of state-wide importance and particularly so in this critical period, when we are shocked and distressed by the reversion in other countries to systems of despotism and dictatorship. As is stated in *Judson on Taxation*, 2d Ed., p. 407, sec. 386: ‘Whatever legitimately tends to inspire patriotic sentiments, and to enhance the respect of citizens for the institutions of their country, and incites them to contribute to its defense in time of war, has been held to be a lawful public purpose, such as will justify the exercise either of the power of taxation or of the power of eminent domain.’ That was approved and applied in *State ex rel. Atwood v. Johnson*, 170 Wis. 218, 232, 175 N. W. 589, 7 A. L. R. 1617, in which the appropriation of money under the Soldiers’ Bonus Law (Ch. 667, L. 1919,) to be awarded to state residents who were inducted into and served in the armed forces of the nation, was held to be for a public pur-

pose. And as this court said in *State ex rel. Atwood v. Johnson*, 170 Wis. 251, 259, 176 N. W. 224, 226: 'Since the continuity of a republic depends largely upon the patriotism and the enlightenment of its people, the stimulation of both becomes not only a public purpose, but a public necessity. Both must be zealously fostered in order to maintain national security.' See also *Brodhead v. Milwaukee*, supra; *People v. Westchester Co. Nat. Bank*, 231 N. Y. 465, 132 N. E. 241, 15 A. L. R. 1344; *In re Opinion of the Justices*, 190 Mass. 611, 77 N. E. 820; *Allied Architects Ass'n. v. Payne*, 192 Cal. 431, 221 P. 209, 30 A. L. R. 1029; *Stephens v. Chambers*, 34 Cal. App. 660, 168 P. 595; *Barrow v. Bradley*, 190 Ky. 480, 482, 227 S. W. 1016. The fact that the furtherance of these purposes is likewise of nation-wide importance does not alter or minimize in any degree their state-wide character. As this court has said: 'The common defense by the nation can only be successfully maintained by co-operation of the states; hence, when a war is waged by the nation, those supporting it are performing services as well for their respective states as for the nation.' *State ex rel. Atwood v. Johnson*, supra, 170 Wis. at page 230, 175 N. W. at page 594, 7 A. L. R. 1617.

It is the duty of this and every other state, as an integral member of our federal nation, to aid in the preservation of the nation, and to that end do everything within its means and power. That includes the stimulation and promotion of patriotism by quickening the perception of our citizens that there is a sacred duty to defend the government in time of need, as well as to demonstrate that such defense is appreciated, and thus assure to the nation the loyal support of its citizenry. These public purposes are clearly of as state-wide concern and importance as the promotion of health or education, the conservation of fish and game, or the conduct of police and fire departments, etc."

A similar view was announced in the case of *Allied Architects v. Payne*, 192 Cal., 431, 221 Pac., 209, where it was held by the Supreme Court of California that:

"The promotion of patriotism is a public purpose for which the public money of a county may be expended."

And that:

"The erection of a building (at a cost of \$500,000) by a county as a memorial hall to the extent that it would serve as a stimulus to patriotism would be for a public purpose which would not be defeated by permitting its use by associations of veterans, whose purpose is to promote patriotism or by restricting its use to them." (parentheses, the writers.)

Certainly, nothing is so calculated to serve as a stimulus to patriotism as the just reward of those who served their country in time of war, and while the person principally benefited by the educational training of a veteran of World War II is the veteran himself, the benefit to the public at large is almost as great. The Congress of the United States has recognized the public necessity for the educational training of veterans in its enactment of Section 701(f) of Title 38 of the United States Code, and the Veterans Administration by regulation has provided implementation for the policies declared by Congress. The universally recognized housing shortage has made necessary unusual measures to provide suitable housing facilities for persons attending colleges under the educational training program of the Veterans' Administration and the fact that housing facilities so provided may be at a considerable distance from the educational institution may necessitate some provision for transportation of the student veterans to and from school. Therefore, in effectuating the purpose of the so-called "G. I. Bill of Rights," it is my opinion that the furnishing of transportation facilities for veterans of World War II attending universities or colleges thereunder, constitutes a use of such vehicles for an exclusively public purpose.

In specific answer to your question, therefore, it is my conclusion that buses owned by the United States Government and leased or loaned to universities or colleges, either state-owned or privately-owned, for the transportation of veterans of World War II attending school under the so-called "G. I. Bill of Rights" are "publicly operated and used exclusively for public purposes" so as to authorize and require their free registration and the issuance by the Bureau of Motor Vehicles of gratis license plates.

Respectfully

HUGH S. JENKINS
Attorney General