

2514.

APPROVAL—BONDS, BAUGHMAN RURAL SCHOOL DISTRICT, WAYNE COUNTY, OHIO, \$2,500.00, DATED JUNE 1, 1938.

COLUMBUS, OHIO, May 27, 1938.

Retirement Board, State Teachers Retirement System, Columbus, Ohio
GENTLEMEN:

RE: Bonds of Baughman Rural School Dist.,
Wayne County, Ohio, \$2,500.00. (Limited.)

I have examined the transcript of proceedings relative to the above bonds purchased by you. These bonds comprise all of an issue of school building bonds dated June 1, 1938, bearing interest at the rate of $3\frac{1}{2}\%$ per annum.

From this examination, in the light of the law under authority of which these bonds have been authorized, I am of the opinion that bonds issued under these proceedings constitute valid and legal obligations of said school district.

Respectfully,

HERBERT S. DUFFY,

Attorney General.

2515.

CERTIFICATE OF TITLE—IMPROPERLY ISSUED—CANCELLATION—REGISTRAR OF MOTOR VEHICLES — NOT AUTHORIZED TO DELEGATE TO CLERKS OF COURTS POWER CONFERRED ON HIM BY SECTION 6290-7 G. C.

SYLLABUS:

The Registrar of Motor Vehicles is not authorized to delegate to the various clerks of courts the power conferred upon him by Section 6290-7 of the General Code relating to the cancellation of certificates of title improperly issued.

COLUMBUS, OHIO, May 27, 1938.

HON. R. W. HORTON, *Prosecuting Attorney, Caldwell, Ohio.*

DEAR SIR: Acknowledgment is made of your recent communication wherein you request my opinion on the following:

“Section 6290-7 G. C. provides that if it appears that a certificate of title has been improperly issued the Registrar shall cancel the same.

Now under his power to make regulations in the first part of this section can the registrar shift this duty to the Clerk of Courts?”

Section 6290-7 of the General Code provides in part as follows:

“The registrar shall issue such regulations as he may deem necessary to insure uniform and orderly operation of this chapter, and the clerks of courts of all counties shall conform thereto. He shall receive and file in his office all instruments forwarded to him by the clerks of courts under the provisions of this chapter and shall maintain indexes covering the state at large for the instruments so filed. * * *

The registrar shall check with his record all duplicate certificates of title received in his office from the clerks of courts. *If it appear that a certificate of title has been improperly issued the registrar shall have the power and it shall be his duty to cancel same.* Upon cancellation of any certificate of title the registrar shall notify the clerk of courts, who issued same, and said clerk of courts shall thereupon enter said cancellation upon his records. The registrar shall also notify the person to whom such certificate of title was issued, as well as any lienholders appearing thereon, of said cancellation and shall demand the surrender of such certificate of title, but said cancellation shall not affect the validity of any lien noted thereon. The holder of such certificate of title shall return same to the registrar forthwith. If a certificate of registration has been issued to the holder of a certificate of title so cancelled the registrar shall immediately cancel same and demand the return of such certificate of registration and license plates or tags, and the holder of such certificate of registration and license plates or tags shall return same to the registrar forthwith. * * * ”

The above quoted portions of Section 6290-7, General Code, are the only provisions contained in the new Certificate of Title Law relating to the power of the Registrar of Motor Vehicles to cancel a certificate of title which has been improperly issued. It will be specifically noted from a reading of Section 6290-7, supra, that no language is therein contained which can be construed as expressly or impliedly conferring upon the Registrar the authority of delegating this power thus conferred to the

various clerks of courts throughout the state. Although the first sentence of Section 6290-7, supra, authorizes the Registrar to make such regulations as he may deem necessary for the uniform and orderly operation of the Certificate of Title Law, yet, it is quite apparent that this language can not be construed or interpreted as authorizing the Registrar to delegate to the various clerks of courts the power which the Legislature has specifically conferred upon him.

It is a fundamental principle of law that when powers are conferred and duties assigned to a public officer, board or commission, such officer, board or commission may not, by the adoption of rules or regulations, confer further jurisdiction or add to the powers expressly granted. This well recognized principle as pronounced by the Supreme Court of Ohio will be found in the case of *Davis et al. Civil Service Commission vs. The State, ex rel. Kennedy, Director of Public Service*, 127 O. S. 261, wherein the court held as is disclosed by the reading of the first branch of the syllabus:

“Where a certain jurisdiction is duly conferred, duties assigned and powers granted to a board or commission, such board or commission cannot confer upon itself further jurisdiction or add to its powers by the adoption of rules under authority granted to adopt rules of procedure.”

At page 264 of the opinion, Judge Matthias, speaking for the court, said:

“There should be some limit to the tendency to confer upon boards, commissions and individual executive officers power to proclaim an ipse dixit having the practical effect and force of law, and there should be some restriction upon the tendency of boards and commissions to confer power upon themselves under the guise of rules of procedure, which are authorized only in the exercise of powers duly granted. Here the power sought to be exercised by the commission was not granted by the city charter. A limited jurisdiction in appeal was granted, but the right of appeal was restricted to employes in specific departments. Thereby all others were excluded, and of course could not be added by the action of the recipient of the powers granted.”

Thus, is stated the principle of law which is dispositive of your particular question. If boards and commissions, as well as individual executive officers can not, under the guise of rules of procedure, add to the powers specifically conferred by statute, it is quite apparent that by the same token such boards, commissions and individual executive officers

can not by the adoption of rules or regulations, delegate the powers so conferred and duties assigned to some other agency. The application of the principle "expressio unius est exclusio alterius" is itself decisive of this question.

It is, therefore, my opinion in specific answer to your question that the Registrar of Motor Vehicles is not authorized to delegate to the various clerks of courts the powers conferred upon him by Section 6290-7 of the General Code relating to the cancellation of certificates of title improperly issued.

Respectfully,

HERBERT S. DUFFY,

Attorney General.

2516.

APPROVAL — GRANT OF EASEMENT, STATE OF OHIO, THROUGH CONSERVATION COMMISSIONER, WITH CECIL T. HARTLEY AND WILBERT MUMFORD, DESCRIBED TRACT OF LAND, PIKE TOWNSHIP, CLARK COUNTY, OHIO, FOR PUBLIC FISHING GROUNDS AND TO IMPROVE THE WATERS OR WATER COURSES PASSING THROUGH AND OVER SAID LAND.

COLUMBUS, OHIO, May 27, 1938.

HON. L. WOODDELL, *Conservation Commissioner, Columbus, Ohio.*

DEAR SIR: You have submitted for my examination and approval a certain grant of easement, No. 1586, executed to the State of Ohio by Cecil T. Hartley and Wilbert Mumford, conveying to the State of Ohio for the purposes therein stated, a certain tract of land in Pike Township, Clark County, Ohio.

By the above grant there is conveyed to the State of Ohio, certain land described therein, for the sole purpose of using said land for public fishing grounds, and to that end to improve the waters or water courses passing through and over said land.

Upon examination of the above instrument, I find that the same has been executed and acknowledged by the grantors in the manner provided by law and am accordingly approving the same as to legality and form, as is evidenced by my approval endorsed thereon, which is herewith returned.

Respectfully,

HERBERT S. DUFFY,

Attorney General.