

12. Grinding mill and motor appurtenance thereto; hoisting rinch and engine; welding machine and power plant; tar-spreading apparatus; concrete mixing equipment; held; not truck equipment within purview of truck license tax law."

In view of the foregoing, and in specific answer to the questions presented, it is my opinion that an "asphalt and tar distributor" or a "cement mixer" is equipment used in road construction work and not designed for or employed in general highway transportation. Therefore, such equipment is excepted from the legislative definition of the term "motor vehicle," and is accordingly exempt from the annual motor vehicle license tax.

Respectfully,

HERBERT S. DUFFY,  
*Attorney General.*

2199.

CELEBRATION—150TH ANNIVERSARY ADOPTION OF ORDINANCE 1787 AND SETTLEMENT NORTHWEST TERRITORY—CHARTER CITY—UNLESS PREVENTED BY CHARTER, HAS PLENARY POWER TO APPROPRIATE AND EXPEND REASONABLE SUM OF MONEY—GENERAL, PUBLIC, EDUCATIONAL PURPOSE—SEE OPINION 2274, APRIL 12, 1938.

*SYLLABUS:*

*A charter city, unless prevented by its charter, has plenary power to appropriate and expend a reasonable sum of money, by way of participation in the one hundred and fiftieth anniversary of the adoption of the Ordinance of 1787 and settlement of the Northwest Territory, such expenditure being for a general, public, educational purpose.*

COLUMBUS, OHIO, March 31, 1938

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

I am in receipt of your communication of recent date as follows:

"We are enclosing herewith a letter from our Zanesville Examiner, in which it is shown that the City of Zanesville contemplates participation in a celebration concerning the Northwest Territory, which involves the expenditures of public funds.

"As other cities in this Territory are interested in the matter, it is deemed advisable to ask your consideration and advice on the following question:

"Question: Many cities expend public funds to participate in a celebration concerning the Northwest Territory, by providing 'floats,' etc.?"

"In connection with the above we call your attention to Attorney General's Opinion No. 393, dated April 27, 1927."

I note from the attached letter of your examiner that the City Council of the City of Zanesville, Ohio, has authorized the city auditor to donate the sum of \$200.00 to the Committee for the Northwest Territory Sesquicentennial Celebration, that such sum has been duly appropriated and will be used in providing a float to participate in the parade or pageant to take place during the present year.

This celebration was authorized by Amended Senate Bill No. 317 of the 91st General Assembly of Ohio. Section I of the Act sets out its purpose, namely, the participation by the State of Ohio and its citizens in the observance and celebration of the one hundred and fiftieth anniversary of the adoption of the Ordinance of 1787 and the settlement of the Northwest Territory. A Commission was provided for in this section, and in Section 4 its power was amplified as follows:

"The commission which shall consist of such persons representing the state government, the educational and historical and such other activities and interests of the state *as they deem necessary to effectuate the purpose of the ordinance of 1787 and to emphasize its far-reaching effect in vitally shaping and determining the pattern of development of our nation, its ideals, its constitution and its government.*"—(Italics the writer's.)

It becomes necessary at this time to inquire into the purposes of the Ordinance of 1787. It is not necessary to set out all the purposes of the Ordinances.

I deem it all-sufficient to quote the first sentence of Article III:

"Religion, morality and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged."

I take it that this parade or pageant is in fact a means of education within the contemplation of the Ordinance.

The City of Zanesville occupies an important place in the early history of Ohio, and Ohio was the first state to be carved out of the Northwest Territory. Naturally, the people of the Northwest Territory will expect much from Ohio and Ohio should not disappoint them.

I take it that the proposed float will be illustrative of some important historical feature with which the City of Zanesville had some connection. Such a float would certainly be educational. Illustration is one of the most potent of all the means of inculcation.

In our youth we see the letters "C-A-T". We are told that those letters spell "cat", and that a cat is a small animal of the feline species. We are uncertain just what a cat looks like from this definition—but when we see the cat, we know.

The City of Zanesville by appropriating the sum of \$200.00 toward this parade or pageant, is dedicating such money to a public educational purpose. It is a public purpose because the General Assembly of Ohio has said it was and it requires no draft upon the imagination to determine its educational value.

In the Opinion appearing in the Opinions of the Attorney General for 1927, Volume I, Page 678, it was held as set forth in the syllabus:

"The council of a charter city may appropriate money for the purpose of paying the cost of a municipal exhibit in an industrial exhibition to be held for the purpose of promoting the welfare and prosperity of the city."

I concur in this opinion.

The City of Zanesville has plenary power to make this expenditure unless prevented by her Charter. I may say I have examined the City Charter of the City of Zanesville carefully and find no provision therein that would preclude such an expenditure.

Respectfully,

HERBERT S. DUFFY,

*Attorney General.*