

"The object of the legislature is to prevent the public from being misled as to the identity of the vendor."

Obviously, the question you propound is whether such a group as you mention would be a "firm or corporation" under the terms of the section; or, probably, the question is whether a number of persons may make joint application under the section, as apparently the producers to whom you refer are not as yet organized.

In connection with the problem at hand, it will be noted that the section you mention is a part of Chapter 16 of Part Fourth of the General Code. Section 12368, General Code, being the first section of said Part Fourth, provides, among other things, that words "in the singular number include the plural number". It is my judgment that regardless of the time of enactment of section 13169, section 12368 should be given consideration.

It is thought to be a fundamental principle of law that individuals may do collectively that which they may do alone, unless there are statutory inhibitions against such conduct, or such action is against public policy.

It may be noted in connection with your inquiry that section 6240-1, et seq., of the General Code provides for a very similar method of registering devices and trade marks, etc., as that provided for in section 13169.

While the particular question presented seems not to have been decided, it is my opinion that a number of producers of milk may mark and designate milk bottles with a common designation, under section 13169 of the General Code.

Respectfully,
JOHN W. BRICKER,
Attorney General.

3988.

DISAPPROVAL, BONDS OF SHEFFIELD LAKE VILLAGE SCHOOL DISTRICT,
LORAIN COUNTY, OHIO, \$2,938.21.

COLUMBUS, OHIO, March 1, 1935.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.

GENTLEMEN:—I have examined the transcript of the proceedings relating to the above bond issue.

RE. *Bonds of Sheffield Lake Village School Dist., Lorain County, Ohio,*
\$2,938.21.

It is proposed to issue these bonds under House Bill No. 11 of the third special session of the 90th General Assembly. The transcript shows that this district has outstanding bonds in the amount of \$6300.00, which were issued under House Bill No. 17 of the first special session of the 90th General Assembly. From the financial statement it appears that the amount of these bonds, which is actually in excess of the debt limitation for unvoted indebtedness, is greater than the amount of the net floating indebtedness as of July 1, 1934, as certified by the State Auditor. It follows, therefore, that this district cannot issue bonds under said House Bill No. 11.

It is suggested that this district resubmit its financial statement to the State Auditor

and obtain a new certificate from him and proceed under the provisions of Amended House Bill No. 140 of the second special session of the 90th General Assembly.

Respectfully,

JOHN W. BRICKER,
Attorney General.

3989.

SALES TAX—MOTOR TRANSPORTATION COMPANY IF PUBLIC UTILITY
EXEMPT FROM PAYING TAX WHEN PROPERTY PURCHASED USED IN
RENDITION OF PUBLIC UTILITY SERVICE.

SYLLABUS:

A motor transportation company which is defined as a public utility by sections 614-2 and 614-2a, General Code, and which is a public utility in fact, is included within the meaning of the term "public utility" as the same is used in the provisions of section 5546-1, General Code, defining the term "retail sale" and "sale at retail," and sales made to such motor transportation company for the purpose on its part as the consumer to use or consume the property sold to it in the rendition of its normal and ordinary service as a public utility, are exempt from the sales tax provided for by section 5546-2, General Code.

COLUMBUS, OHIO, March 2, 1935.

The Tax Commission of Ohio, Columbus, Ohio.

GENTLEMEN:—This is to acknowledge the receipt of your recent communication which reads as follows:

"The tax commission requests your answer on the construction which should be given

'to use or consume in the rendition of a public utility service'
as set forth in 5546-1, paragraph 6 of the General Code.

The question is whether or not 'to use or consume in the rendition of a public utility service' should include utility companies as defined in section 614-2 and 614-2a, known as motor transportation companies, and those companies as defined in section 5415, General Code, or should the exemption be limited to those companies as set forth in section 5546-2, paragraph 6 of the General Code."

The question presented in your communication requires a construction of certain pertinent provisions of Amended House Bill No. 134, which was enacted by the 90th General Assembly, providing for a levy and collection of a tax upon sales of tangible personal property at retail, and which has been carried into the General Code as sections 5546-1 to 5546-23, inclusive.

Section 5546-1, General Code, provides that for the purpose of providing revenue with which to meet the needs of the state for poor relief in the existing economic crisis, for the use of the general revenue fund of the state, for the purpose of securing a thorough and efficient system of common schools throughout the state, and for the purpose of affording revenues, in addition to those from general property taxes, per-