

727.

SECTIONS 6370, 6371, 6372, 6373, and 13398, GENERAL CODE APPLY TO JUNK DEALERS WITHIN AND WITHOUT CORPORATE LIMITS OF MUNICIPALITIES.

SYLLABUS:

The provisions of Sections 6370, 6371, 6372, 6373 and 13398, General Code, are applicable to junk dealers located outside of as well as in the municipal corporations of this state.

COLUMBUS, OHIO, June 11, 1937.

HON. D. HARLAND JACKMAN, *Prosecuting Attorney, London, Ohio.*

DEAR SIR: You have requested my opinion in your recent letter which reads as follows:

"I would appreciate the benefit of your experience in connection with General Code Section 6370, 6371, 6372, 6373 and 13398, all of which deal with the regulation of junk dealers by state law.

In these sections there are several words referring to cities and city officers and yet I can find no language which would specifically limit their application to cities.

Would you kindly advise whether or not their provisions are equally applicable to junk dealers located in villages or in rural communities?"

In order to ascertain just what was the legislative intent in the enactment of the sections you refer to in your letter, it is necessary to trace back the history of this legislation. I find that Section 6370, General Code, was originally enacted, effective March 31, 1864, which enactment was captioned "An Act to regulate in cities of the first and second class stores and shops for purchase, sale or exchange of old metals and second-hand furniture." This act was amended on February 22, 1877, to regulate traffic in sale or exchange of scrap iron, old rope and junk. This amendment was silent as to whether or not the same referred to cities of the first and second class. The next amendment to the section was effective March 26, 1886, and it repealed the section then existing, which changed some of the details of reporting to the authorities which were involved in this business. The next amendment was effective March 19, 1889, repealing the section then in existence and required further details generally in this business. The next amendment, effective March

31, 1917, amended the then existing Section 6370, General Code, in which form it now stands, which relates to the duties of dealers in second-hand articles and requires further duties in reporting to the authorities.

Only in the original enactment in 1864 do I find any reference made to cities of the first and second class. In all subsequent enactments, namely, four in all, the words "cities of the first and second class" are conspicuous by their absence. Each time an amendment was made the wording of the amendment changed somewhat the scope of the act by increasing the various things with which the act was concerned.

It is interesting to note the wording of the latest amendment to this section as it is in its present form, in that it refers to keeping a separate book, open to inspection by a member of the police force, city marshal, constable or other person in which it shall be written, etc. The language of this statute does not confine its operation to cities alone, but takes into its scope of operation a dealer in second-hand articles, whether he is engaged in business in a city, a village or in the country. It is obvious that the intent of the legislature was to make this regulatory measure apply to all dealers in second-hand articles wherever they were situated in business.

I do not believe it necessary to cite any authority for coming to this conclusion, and it is therefore my opinion that the provisions of Sections 6370, 6371, 6372, 6373 and 13398 are applicable to junk dealers wherever they are located in the State of Ohio.

Respectfully,

HERBERT S. DUFFY,
Attorney General.

728.

APPROVAL—BONDS OF CLEVELAND HEIGHTS CITY
SCHOOL DISTRICT, CUYAHOGA COUNTY, OHIO,
\$28,000.00.

COLUMBUS, OHIO, June 11, 1937.

State Employees Retirement Board, Columbus, Ohio.

GENTLEMEN:

RE: Bonds of Cleveland Heights City School Dist.,
Cuyahoga County, Ohio, \$28,000.00.

The above purchase of bonds appears to be part of two issues of