

covers the premises under consideration down to the beginning of said partial abstract.

It is further believed that the abstract as submitted discloses a sufficient title to said premises to be in the name of Arthur Weldon free from encumbrances, excepting the taxes for the years 1923 and 1924, which are unpaid and a lien.

You have also submitted Encumbrance Estimate No. 9097, in the amount of \$800.00, which contains the certificate of the Director of Finance to the effect that funds are available for such purpose.

You have further submitted a form of deed which, among other things, provides that the grantee assumes the payment of all taxes and assessments falling due on and after December, 1924. Under the terms of the deed it will be the duty of the grantor to pay the taxes for the year 1923, and the State will be required to pay them thereafter.

It is believed that said deed is sufficient to convey the title of the said Arthur Weldon when the same is properly executed and delivered.

The abstract, deed and encumbrance estimate are herewith returned.

Respectfully,
C. C. CRABBE,
Attorney General.

1627.

HIGHWAYS—TRAFFIC REGULATIONS—AUTHORITY OF COUNTY SURVEYORS AND MAYORS OF VILLAGES UNDER SECTION 7247 G. C.

COLUMBUS, OHIO, July 26, 1924.

SYLLABUS:

Authority given county surveyors, etc., under section 7247, is to be exercised in special cases only when the object to be moved is not divisible into loads so as to comply with section 7246 G. C.

Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

Gentlemen:—

I am in receipt of your recent communication as follows:

“We are in receipt of a letter from Mr. R. A. B., legal adviser for several Cuyahoga County villages, which reads as follows:

‘Section 7247 gives the county surveyor and the mayors of villages the authority to grant permission for the moving of vehicles weighing in excess of the provisions of the state law, over the public highways.

‘The deputy sheriff of Cuyahoga County has taken a number of road cases to the mayor of Bay Village for prosecution. In several of these cases a permit signed by the county surveyor has been presented in evidence, which imposed no conditions as to time limit or maximum load weight.

The question arises in these cases as to the authority of the county surveyor and mayors of villages to grant unconditional permits and which, in effect, prefer one contractor over another without stating any special reason.

The matter has been referred to me for an opinion and I have come to the conclusion that said Section 7247 leaves the matter solely to the discretion of the county surveyor and mayors of villages, and they have the right to grant permission without imposing any conditions whatsoever, and without setting forth any special reasons for the exercise of their discretion.

'This is a question of general interest throughout the state, and unless you have an opinion of the Attorney General covering the question, I would consider it a personal favor if you would submit it to Mr. Crabbe for his consideration.'

"Being, as Mr. B. says, of general interest we would much appreciate your views on this subject."

Section 7247, General Code, provides as follows:

"The county surveyor of any county, upon application in writing by the owner or person having charge thereof, may grant permission for the moving of vehicles, objects or structures in excess of a total weight of twelve tons, including weight of vehicle, object or contrivance, structure and load, over the improved public highways, bridges or culverts within such county, and located outside of any municipal corporation or corporations therein situated. Such permission shall be in writing and the county surveyor may grant the same subject to such conditions and restrictions as in his judgment are necessary for the preservation and protection of such highways, bridges and culverts. The director of public service of a city or mayor of a village may in like manner grant such permission as to the improved public highways, streets, bridges or culverts within such city or village."

A careful reading of this section discloses that there is no limitation as to time or maximum load. This section also provides that such permission must be in writing and subject to such conditions and restrictions as in the judgment of the county surveyor, etc., are necessary for the preservation and protection of the public highways.

Section 7247, General Code, apparently leaves the matter solely to the discretion of the county surveyor and he may grant such permission without imposing any conditions.

Such power placed in the hands of the various county surveyors and other public officials would, in the hands of unscrupulous public officials, tend to nullify all laws regulating maximum load permitted to be moved over the public highways, and such a construction should not be given the statute if any other construction is possible.

In the case of *United States vs. B. & O. Railroad*, 8 Ohio Law Reporter, 549, decided by the United States Circuit Court of Appeals, it was held:

"When construing a clause of a statute regard must be had to the language of the clause itself and then to other clauses in the same act, and that construction adopted which permits the whole act to stand consistently together or reduces the inconsistency to the smallest possible limitations."

In the case of *State of Ohio vs. Van Gunten*, 84 O. S. 172, the court say, at page 175 of the opinion:

"The rule is familiar, but a restatement of it as made in *State vs. Rouch*, 47 Ohio St., 478-485, may be of assistance here, viz: In giving 'construction to a statute all its provisions must be construed together. We must endeavor to get at the legislative intent by a consideration of all that has been said in the law and not content ourselves with partial views, by selecting isolated passages and holding them alone up to criticism. What is the whole scheme of the law? What object did the legislature intend to accomplish?'"

In *Buckman vs. State*, 81 O. S., 175, at page 178 of the opinion the court say:

"The object of judicial investigation in the construction of a statute is to ascertain and give effect to the intent of the law making body which enacted it and the more literal construction of a statute ought not to prevail, if apparently opposed to the intention of the legislature enacting it, unless the language employed therein is so plain and unambiguous as to imperatively require."

Section 7247, General Code, is part of Title 4, "Public Highways," Chapter 9, "Traffic Regulations", and relates to weight, height, length, width, of tires and speed of vehicles on public ways.

Section 7246, General Code (110 O. L. 319), provides:

"No traction engine or steam roller weighing in excess of twelve tons, or no trailer, semi-trailer, wagon, truck, automotive truck or other power vehicle, whether propelled by muscular or motor power, weighing in excess of ten tons, including weight of vehicle, object or contrivance and load, shall be operated over and upon the improved public streets, highways, bridges or culverts within the state, except as provided in this chapter. This provision shall not apply to vehicles run upon rails or tracks or to fire engines, fire trucks or other vehicles or apparatus belonging to any municipal or volunteer fire department or used by such department in the discharge of its functions. No object shall be moved over or upon such streets, highways, bridges or culverts upon wheels, rollers or otherwise, except as provided in this chapter, in excess of a total weight of twelve tons, including weight of vehicle, object or contrivance, and load."

This section limits the weight of vehicle operated on public ways, and section 7247 provides for exemption under certain conditions. Section 7248, General Code, 110 O. L., 320, relates to weight of load with relation to width of tire. Section 7248-1 relates to gross weight of load on one axle and to thickness of tire. Section 7248-2 (110 O. L. 321) provides:

"No vehicle shall be operated upon the highways of this state whose width is greater than ninety-six inches, except traction engines whose width shall not exceed one hundred and thirty-two inches, and no vehicle shall be operated on the highways of a greater height than twelve feet six inches, or of a greater length than thirty feet, and no combination of vehicles coupled together shall be so operated whose total length, including load, shall be greater than eighty-five feet, *provided that in special cases vehicles whose dimensions exceed the foregoing may operate under a written permit granted as provided in this chapter.* Provided, that this section shall not

apply to fire engines, fire trucks, or other vehicles or apparatus belonging to any municipality or to any municipal volunteer fire department or salvage company organized under the laws of Ohio or used by such department or company in the discharge of its function."

Section 7249, General Code, relates to speed of commercial cars on the public highways.

From a consideration of all these sections, it will be seen that the state has a definite policy of limiting weight, width, height, length and speed and of prescribing size of different types of tires on vehicles on the public ways, with the object of preservation and protection of highways and streets.

Section 7248, after prescribing weight, width and length of vehicles operated upon the public highways, provided that in *special cases* vehicles whose dimensions exceed the foregoing, may operate under a written permit granted as provided in this chapter.

The only written permit provided in this chapter is the one mentioned in section 7247, and considering that the permit mentioned in section 7248-2 is only to be issued in special cases, this gives us a key to a proper construction of section 7247, as these sections are all related.

It will be noted that section 7247, General Code, uses the words "may grant permission for the moving of vehicles, objects or structures in excess of a total weight of twelve tons, including weight of vehicle, object or contrivance, structure and load * * *". This would indicate that it is the object to be moved that should be considered. If the object to be moved is divisible so that it can be hauled in parts, the limitation of section 7246 must control, but if the object weighs, together with the means of moving same, more than the amount permitted, and the object is not divisible, then the same may be moved by securing a permit under section 7247, General Code.

Respectfully,

C. C. CRABBE,

Attorney-General.

1628.

PAWNBROKERS—NOTICE REQUIRED UNDER SECTION 6341-1 G. C.

SYLLABUS:

Under Section 6341-1 of the General Code, articles other than jewelry and kindred articles, must be held thirty days prior to giving notice and thirty days after the giving of notice before they may be sold, as provided by statute.

COLUMBUS, OHIO, July 26, 1924.

HON. NORMAN E. BECK, *Chief, Division of Securities, Columbus, Ohio.*

Dear Sir:—

I acknowledge receipt of your letter of recent date, in which you quote from Section 6341-1 of the General Code of Ohio, and inquire "whether all articles with