

for my examination and approval, a canal land lease, in triplicate, which you have executed in your official capacity as Superintendent of Public Works and as Director of said Department, to the Department of Highways of the State of Ohio. By this lease, which is one for a term of ninety-nine years, renewable forever, at an annual rental of \$6.00, there is leased and demised to the Department of Highways of this state for public highway and road purposes, a parcel of abandoned Ohio canal lands in Peepee Township, Pike County, Ohio, which parcel of land is more particularly described by metes and bounds in this lease.

As above indicated, the canal lands in question are a part of the Ohio canal system; and these lands are included in that part of the Ohio canal which was abandoned for canal purposes by the Act of the 79th General Assembly under date of June 7, 1911, 102 O. L. 293. By the provisions of this act the maximum term for which any of the canal lands abandoned by the act could be leased was and is a period of twenty-five years. However, Amended Substitute Senate Bill No. 69, enacted by the 89th General Assembly under date of April 22, 1931, 114 O. L. 518, commonly known as the Farnsworth Act, is an act of general application to all of the abandoned canals in this state; and by the provisions of this act such part of the abandoned canal lands in this state which have not been taken over by some municipal corporation or other political subdivision for public park and recreational purposes may be leased by the Superintendent of Public Works for a term of ninety-nine years, renewable forever, or for a term of fifteen years and multiples thereof up to ninety years. I am not prepared to say that the provisions of this act do not apply and afford to you authority to execute the lease here in question for the term therein provided for. On the contrary, I am inclined to the view that one of the purposes of the act was to authorize the Superintendent of Public Works to execute leases of abandoned canal lands for longer terms than those provided for in the several acts providing for the abandonment of the canal lands of this state for canal purposes.

Holding this view with respect to the purpose and effect of the Farnsworth Act as to this question, and finding, as I do, that this lease has been properly executed by you, and by the Department of Public Works by the hand of the Director of said Department, this lease is hereby approved by me, as is evidenced by my approval endorsed upon the lease and upon the duplicate and triplicate copies thereof, all of which are herewith returned.

Respectfully,

JOHN W. BRICKER,

Attorney General.

3846.

COUNTY SURVEYOR—MAY GRANT PERMISSION FOR EXCESSIVE WEIGHT ON HIGHWAYS WITHIN COUNTY WHEN—PERMISSION BY DIRECTOR OF HIGHWAYS WHEN.

SYLLABUS:

1. *The County Surveyor of any county, upon written application, may grant permission for the intra-county movement of vehicles, objects or structures in excess of the maximum weight on the improved public streets and highways, bridges or culverts, within such county and located outside of any municipal corporation therein situated*

and is not limited solely to granting permission for such intra-county movements to county roads only.

2. *Either the County Surveyor or the Director of Highways, upon written application, may grant permission for the intra-county movements of vehicles, objects or structures of excessive weight when such movement is wholly upon any portion of the inter-county highways, bridges or culverts.*

COLUMBUS, OHIO, January 22, 1935.

HON. ROBERT CRITCHFIELD, *Prosecuting Attorney, Wooster, Ohio.*

DEAR SIR:—I am in receipt of your communication which reads as follows:

"I would like to have your interpretation of Section 7274 of the Ohio General Code concerning which some questions have arisen in this County.

The first paragraph of that section provides that the County Surveyor upon written application may grant permission for the moving of vehicles, objects or structures in excess of the maximum weights permitted over the improved public streets and highways, bridges or culverts within the county and located outside of municipal corporations.

The second paragraph provides that the Director of Highways may grant such permission in regard to all inter-county movements of such vehicles or in regard to any such movement wholly or on any portion of the inter-county highways.

The County Surveyor of Wayne County wishes to know whether or not he can grant such permission over either improved state or county roads in the county on intra-county movements or whether he is limited solely to granting permission for such movements to county roads only.

* * * * *

We would appreciate your opinion on the proper interpretation of this section."

The legislative history of Section 7247, General Code, serves to shed some light upon the proper construction of this section. As enacted by the 82nd General Assembly (107 O. L. 140), Section 7247 provided:

"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 the total weight of twelve tons, including weight of vehicles, objects 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." (Italics the writer's.)

It is apparent from a reading of the statute, as originally enacted, quoted supra, that the County Surveyor was granted full authority to grant permission to move vehicles of excessive weight over the improved public highways, which included state highways, within the county under such conditions as he deemed necessary excepting that part of the highway located within a municipal corporation.

By the 86th General Assembly, (111 O. L. 243), Section 7247 was amended and the only material change made relative to the question you ask was the addition of a provision giving certain authority to the Director of Highways and Public Works in certain cases. It provided in its entirety as follows:

"The county surveyor of any county, upon application in writing by the owner or persons 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 inter-county highways, main market roads, 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 the village may in like manner grant such permission as to improved public highways, streets, bridges or culverts within such county or village.

The director of the department of highways and public works may in like manner grant such permission as to improved public highways, streets, bridges or culverts within this state in regard to *all inter-county movements of such vehicles, objects or structures, or in regard to any such movement wholly upon any portion of the inter-county highways, bridges or culverts.*"

(Italics the writer's.)

It is to be noted that the only material change in the law was a provision giving the Director of the Department of Highways and Public Works authority to "grant such permission as to the improved public highways, streets, bridges or culverts within this state in regard to all *inter-county* movements of such vehicles, objects or structures, or in regard to any such movement wholly upon any portion of the inter-county highways, bridges or culverts." The other provisions were left substantially intact. Since under the former enactment no one authority had power to grant permission for an inter-county movement, evidently the legislature intended to correct this difficulty and give such power over inter-county movements to the Director of the Department of Highways and Public Works, excepting therefrom that part of the inter-county movement within the limits of a municipal corporation.

Rather awkward phraseology is used in that part of the provision which states "or in regard to any such movement wholly or on any portion of the inter-county highways, bridges or culverts." It might be argued that "such" movement refers back to an inter-county movement but such construction would virtually read out of the section this provision. In construing a statute, full force and effect must be given to every part thereof if possible. *State ex rel. vs. Liquor Licensing Board*, 15 O. N. P. (N.S.) 305; *Commissioners vs. Rafferty*, 19 O. N. P. (N. S.) 97; *State of Ohio vs. Van Gunten*, 84, O. S. 172, 175; *Stanton vs. Realty Co.*, 117 O. S. 345, 349. Consequently "such movement" must be interpreted to refer back to movements of motor vehicles, objects or structures of excessive weights referred to in the earlier part of Section 7247, General Code. For this reason it is my opinion that either the Highway Director or the County Surveyor may grant permission for the intra-county movements of vehicles, objects or structures of excessive weight when such movement is *wholly* upon any portion of the inter-county highways, bridges or culverts.

This section was further amended by the 90th General Assembly (115 O. L. 240). It now provides:

"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 the maximum weights permitted by this chapter over the improved public streets and 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.

The director of the department of highways may in like manner grant such permission as to the improved public highways, streets, bridges or culverts within this state in regard to all inter-county movements of such vehicles, objects or structures, or in regard to any such movement wholly upon any portion of the inter-county highways, bridges or culverts."

No material change was made in this section that is relative to your inquiry.

In specific answer to your inquiry, it is my opinion that the County Surveyor of any county, upon written application, may grant permission for the intra-county movement of vehicles, objects or structures in excess of the maximum weights on the improved public streets and highways, bridges or culverts, within such county and located outside of any municipal corporation therein situated and is not limited solely to granting permission for such intra-county movements to county roads only. It is also my opinion that either the County Surveyor or the Director of Highways, upon written application, may grant permission for the intra-county movements of vehicles, objects or structures of excessive weight when such movement is wholly upon any portion of the inter-county highways, bridges or culverts.

Respectfully,
 JOHN W. BRICKER,
Attorney General.

3847.

APPROVAL, BONDS OF CUYAHOGA COUNTY, OHIO, \$50,000.

COLUMBUS, OHIO, January 23, 1935.

Industrial Commission of Ohio, Columbus, Ohio.

3848.

WAR VETERAN—PROCEEDS OF ADJUSTED COMPENSATION SERVICE
 CERTIFICATE IN HANDS OF ADMINISTRATION OF VETERAN'S ES-
 TATE EXEMPT FROM INHERITANCE TAX.

SYLLABUS:

Under the provisions of Section 618 of Chapter 11 of Title 38 U. S. C., the pro-