

120.

APPROVAL, BONDS OF YELLOW SPRINGS VILLAGE SCHOOL DISTRICT,  
GREENE COUNTY—\$49,000.00.

COLUMBUS, OHIO, February 26, 1929.

*Industrial Commission of Ohio, Columbus, Ohio.*

121.

MOTOR VEHICLE—BUS—LICENSED IN FOREIGN STATE UNDER LAWS  
SIMILAR TO THOSE OF OHIO—OHIO LICENSE UNNECESSARY.

## SYLLABUS:

*A motor bus owned by a resident of another state who has there registered and obtained a license to operate the same under laws of such other state that are substantially the same as those of this state relating to the registration and licensing of motor vehicles, is not required to be registered in this state or to carry Ohio license plates while being used by such person in either interstate or intrastate transportation in this state, if said motor bus while being so used carries number plates issued pursuant to its registration in such other state, and is otherwise operated in compliance with the laws of such other state relating to the registration and licensing of motor vehicles.*

COLUMBUS, OHIO, February 26, 1929.

HON. CHALMERS R. WILSON, *Commissioner, Bureau of Motor Vehicles, Columbus, Ohio.*

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

“We have a number of companies that are operating bus lines in and through Ohio and the question arises as to the requirements of such busses in operating without Ohio license plates.

This department has held that busses doing Intra-State business in Ohio regardless of the State in which such bus is owned and licensed must also carry Ohio license plates.

The questions in doubt are as follows:

Should a motor bus owned and licensed in a foreign state which is doing an Intra-State business in Ohio be required to carry Ohio license plates?

Should a motor bus which is owned and licensed in a foreign State which is doing an Inter-State business, either receiving or discharging passengers at a terminal in Ohio be required to carry Ohio license plates?

Should a bus owned and licensed in a foreign State which does not receive or discharge passengers in Ohio but does have a station in Ohio for the purpose of interchanging busses, such station being used for the purpose of cleaning and repairing such busses, be required to carry Ohio license plates?

Will you kindly furnish us an official opinion on these questions?”

I do not deem it necessary to quote from or discuss at length the sections of the General Code relating to the registration and regulation of motor vehicles.

Section 6291, General Code, provides for an annual license tax upon the operation of motor vehicles on the public roads or highways of this state for the purpose of enforcing and paying the expense of administering the law relative to the registration of such vehicles and of maintaining and repairing public roads, highways and streets.

Sections 6292 and 6292-1, General Code, provide for the normal rate of such annual license tax or fee, of which sections of the General Code, Section 6292-1 refers to and provides for the rate of the annual license tax or fee on commercial cars.

Under the provisions of Section 6294, General Code, such annual license tax or fee is to be paid at the time application is made for the registration of the motor vehicle as required by said section or by Section 6295, General Code.

Section 6298, General Code, provides that upon the filing of such application for registration, the Commissioner of the Bureau of Motor Vehicles or his deputy shall assign to such motor vehicle a distinctive number and issue and deliver to the owner a certificate of registration, together with two number plates bearing the distinctive numbers assigned to such motor vehicle, which number plates or placards shall be of the design provided for by Section 6300, General Code.

The sections of the General Code above noted by their terms apply to all motor vehicles operated on the public roads, highways and streets in the state, including commercial cars owned outside of the state and used in interstate transportation. As to commercial cars so owned and used, it is quite clear that although the State may not, through any officer or authority, prohibit such interstate commerce nor impose unreasonable burdens upon the same, it still may nevertheless regulate the use of its public roads and highways, and as an incident thereto, it may require commercial cars used in interstate commerce to be registered and to carry plates bearing the assigned registration number of such car; and the State may, for the privilege of using the highways of the State, impose upon commercial cars used in interstate commerce a reasonable license fee or tax for the purpose of producing a fund to pay the expense of administering the law relating to the registration and operation of such vehicles and to maintain and repair the public roads, highways and streets in this State. *Hendrick vs. Maryland*, 235 U. S. 610; *Kane vs. New Jersey*, 242 U. S. 160; *Red Ball Transit Co. vs. Marshall*, 8 Fed. Rep. (2d) 635; and the *Cannon Ball Transportation Co. vs. Public Utilities Commission of Ohio*, 113 O. S. 565, 575.

It would seem, therefore, that aside from the provisions of Section 6306, General Code, the provisions of the sections of the General Code above noted would require an affirmative answer to each of the questions presented in your communication.

Section 6306, General Code, however, provides as follows:

"The foregoing sections of this chapter, and the penal statutes relating thereto, shall not apply to motor vehicles owned by non-residents of this state, provided the owner thereof has complied with the provisions of law in regard to motor vehicles in the state of his residence and complies with such provisions while operating and driving a motor vehicle upon the public roads or highways of this state, and further provided that such sections and statutes are substantially in force as law in the state of his residence."

This section of the General Code was originally enacted as Section 13 of an act "to provide for the registration, identification and regulation of motor vehicles," passed May 9, 1908 (99 O. L. 538), the several sections of which amended in part by an act passed March 12, 1909 (100 O. L. 72), were carried into the General Code as a part of Chapter 21, Title II, Part Second of the General Code, and as Sections 6290 to 6309, inclusive. Other than the insertion of the words "of this chapter" in the second line of the section, the provisions of said section were carried into the General Code substantially as enacted. By the express provisions of this section the foregoing sections of the General Code above noted have no application to any motor vehicles

owned by a non-resident of this state, whether the same be a commercial car or otherwise, if such person has complied with the provisions of law in regard to motor vehicles in the state of his residence and complies with such provisions while operating and driving such motor vehicles upon the public roads or highways of this state, and if further the laws of the state where such owner resides relating to the registration and regulation of motor vehicles are substantially the same as laws of this state in respect to this matter.

Section 6306-1, General Code, provides that the Secretary of State, the Director of Highways and a member of the Public Utilities Commission, designated by said commission for the purpose, are authorized and empowered to enter into reciprocal contracts and agreements with the proper authorities of adjoining states regulating the use on the roads and highways of this state of trucks and automobiles and any other motor vehicles owned in such adjoining states and duly licensed under the laws thereof. It does not appear that any action has been taken under the provisions of this section by said designated committee, and looking to the provisions of section 6306, General Code, above quoted, it follows that if the motor busses referred to in the several questions presented by your communication are owned by non-residents of this state who have complied with laws of the state of their residence substantially like those of this state relating to the registration and regulation of motor vehicles, and if they are complying with such laws in the operation of said motor busses in this state, such owners are not required to register such motor busses under the laws of this state or to carry Ohio license plates thereon.

In reaching this conclusion I am not unmindful of the provisions of Section 6294, General Code, which provides that application for the registration of a motor vehicle shall, among other things, contain the following information:

“\* \* \*

(2) The name, residence and business addresses of the owner, and township, city or village in which such owner resides.

(3) The district of registration, which shall be determined as follows:

(a) In case the motor vehicle to be registered is used for hire or principally in connection with any established business or branch business, conducted at a particular place, the district of registration shall be the municipal corporation in which such place is located; and if not located in any municipal corporation, the county and township in which such place is located.

(b) In case such vehicle is not so used, the district of registration shall be the municipal corporation or county in which the owner resides at the time of making application.

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It seems to me quite clear that the provisions of Section 6294, General Code, above quoted, relate to the registration of motor vehicles owned by residents of this state, and that the provisions of paragraph (3) (a) expend their force in requiring a motor vehicle used for hire or in connection with any established business or branch business at a particular place to be registered at such place, although the residence of the owner of such motor vehicle may be at some other place in this state.

It may be further observed with respect to the questions here presented that if a bus or other motor vehicle owned by a person or corporation in another state and there registered, is turned over to a person in this state for continuous and exclusive use therein for a period of thirty days or more, such person would be an owner thereof under the provisions of paragraph 12 of Section 6290, General Code, and as such he would be required to register the motor vehicle in this state and procure license plates therefor, even though such motor vehicle may have been registered by the actual owner of the motor vehicle in the state of his residence, and the motor vehicle may be

carrying license plates under such registration. However, there are no facts stated in your communication which make applicable the provisions of paragraph 12 of Section 6290, General Code, above noted; and, as the questions here presented are stated in your communication, I am of the opinion that the same should be answered in the negative.

In this connection it would seem that although it would be competent for this state to require motor busses owned by non-residents and used on the public roads and highways of this state in the manner indicated by your several questions to comply with the laws of this state with respect to the registration and regulation of motor vehicles, notwithstanding the owners of such motor busses have complied with the laws of the state of their residence with respect to the registration and regulation of the same, this state has not yet seen fit to make this requirement.

Respectfully,

GILBERT BETTMAN,  
*Attorney General.*

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122.

APPROVAL, BONDS OF MONROE COUNTY—\$20,000.00.

COLUMBUS, OHIO, February 26, 1929.

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

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123.

APPROVAL, LEASE TO OFFICE ROOMS IN THE SOUTH STONEMAN BUILDING IN THE CITY OF COLUMBUS.

COLUMBUS, OHIO, February 26, 1929.

HON. H. H. GRISWOLD, *Director of Public Welfare, Columbus, Ohio.*

DEAR SIR:—This is to acknowledge receipt of your communication of recent date submitting for my examination and approval a lease in triplicate executed by The Sharp Realty Company, as lessor, leasing to the State of Ohio, through the Director of Public Works, certain floor space on the fourth floor of the South Stoneman Building in the City of Columbus, Ohio.

An examination of said lease shows that it is in proper form and as to form the same is hereby approved.

I note that said lease although signed by you in your official capacity as Director of the Department of Public Welfare, and also by the Sharp Realty Company by its Manager, has not been signed by the Director of the Department of Public Works. Inasmuch as under the provisions of Section 164-40, General Code, it is made the duty of the Superintendent of Public Works, as Director thereof "to lease office space in buildings for the use of the state government, or any department, office or institution thereof", said lease should, of course, be signed by said Director.