

The leases here referred to are for a stated term of fifteen years and provide for an annual rental of six per centum upon the appraised value of the parcel of land covered by the lease. Designated with respect to the names of the several lessees, the location of the several parcels covered by the leases and the annual rentals therein provided for, these leases are:

Lessee	Location of Property	Rental
Annie L. Booton	Lot No. 9, NE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Sec. 23, T 17, R 18, Fairfield County, Ohio	\$30.00
William Wallet	Lot 1, Tract 13, Coventry Township, Summit County, Ohio	24.00

Upon examination of these lease instruments, I find that the same have been properly executed by you as Conservation Commissioner, acting on behalf of the State of Ohio, and by the lessees therein named. I further find, upon examination of the leases and of the conditions and restrictions therein contained, that the same are in conformity with Section 471, General Code, under the authority of which these leases are executed, and with other statutory enactments relating to leases of this kind. I am, accordingly, approving the leases above mentioned as to legality and form, as is evidenced by my approval endorsed thereon and upon the duplicate and triplicate copies of these leases, all of which are herewith returned to you.

Respectfully,

HERBERT S. DUFFY,
Attorney General.

536.

REVOCATION OF RIGHT TO OPERATE MOTOR VEHICLES,
CHAUFFEUR—CERTIFICATE OF JUDGMENT OF JUSTICE OF PEACE OR MAYOR—FILED IN COURT OF COMMON PLEAS—MAY NOT, WHEN—ACTIONS FOR PERSONAL INJURIES OR PROPERTY DAMAGE.

SYLLABUS:

The Registrar of Motor Vehicles has no authority under the provisions of Section 6298-1(b) of the General Code, to revoke the right and

privilege of a person to operate a motor vehicle upon the public roads and highways of this state, nor to revoke a license, certificate or permit to operate a motor vehicle, as chauffeur or otherwise, or to revoke a certificate of registration for a motor vehicle, upon receipt of a report from a court of common pleas wherein was filed, in accordance with the provisions of Section 11656-2, General Code, a certificate of judgment rendered by a justice of the peace or mayor's court, in any action for wrongful death, personal injury or damage to property caused by a person's individual operation of a motor vehicle.

COLUMBUS, OHIO, April 28, 1937.

HON. FRANK WEST, *Registrar of Motor Vehicles, Columbus, Ohio.*

DEAR SIR: This is to acknowledge receipt of your communication, which reads as follows:

"Will you please give me your opinion on the following question?

Is a judgment which has been taken in a justice of peace or Mayor's Court for damages, as a result of a motor vehicle collision in which the judgment debtor was the individual operator of the motor vehicle that caused the damages and transcribed to the Common Pleas Court for collection, such a judgment within the purview of Sub-section (b) 6298-1 of the General Code and will such a judgment authorize the Registrar to revoke a license on the report of said transcribed judgment from the Common Pleas Court to which it was transcribed?

Section 6298-1, General Code, provides as follows:

"The registrar of motor vehicles of the State of Ohio is hereby authorized and empowered to and shall, in accordance with the provisions of this act, revoke and terminate the right and privilege of operating a motor vehicle upon the public roads and highways of this state, each license, certificate, or permit to operate a motor vehicle, as chauffeur or otherwise, and each certificate of registration for a motor vehicle of or belonging to any person, who has hereafter either

(a) Been convicted of or pleaded guilty to any of the following offenses, to wit:

1. Manslaughter, resulting from the operation of a motor vehicle;

2. Operating a motor vehicle while under the influence of intoxicating liquor or narcotic drugs;

3. Failing to stop after an accident, when required so to do by law;

4. A felony in the commission of which a motor vehicle was used; or

(b) Failed within thirty (30) days after the entry of the same, to satisfy or stay the execution of any final judgment hereafter rendered against him in any court of record within this state, in an action for wrongful death, personal injury, or damage to property, caused by such person's individual operation of a motor vehicle."

Section 6298-3, General Code, provides as follows:

"The trial court, which passes sentence or imposes a fine upon a person for any of the offenses set forth in Section I (a)* of this act, or renders a final judgment which remains unsatisfied and not stayed as set forth in section 1 (b)* of this act, shall forward immediately to the registrar of motor vehicles, a certified copy or transcript of such conviction or judgment, together with such other information as the registrar may prescribe."

Section 6298-4, General Code, in so far as it pertains to your inquiry, provides that the Registrar of Motor Vehicles may, at any time, and shall, upon receipt of such information from a trial court issue a notice requiring any person who has failed to satisfy or stay the execution of a judgment to show why his right or privilege of operating a motor vehicle, and the certificate or certificates of his motor vehicle should not be revoked and terminated.

From the language employed in Section 6298-1 (b), supra, it will be noted that the final judgment therein referred to, rendered in any action for any of the causes therein enumerated, must be a final judgment rendered by a court of record within this state. Consequently, under the provisions of this section a judgment rendered by a Justice of the Peace or Mayor's Court in any action for wrongful death, personal injury or damage to property, caused by a person's individual operation of a motor vehicle is precluded. This conclusion is borne out by the decision rendered in the case of *State of Ohio vs. Allen*, 117 O. S. 470. The first branch of the syllabus reads as follows:

"A justice of the peace is not a court of record."

Further, with reference to the jurisdiction of a mayor's court, it was stated by the court in its opinion at page 480:

"This conclusion necessarily results in inferentially overruling the case of *Heininger vs. Davis, Mayor*, 96 Ohio St. 205, 117 N. E. 229, because the jurisdiction of a mayor is defined to be that of a justice of the peace, and in all essential respects similar provisions are made for conducting judicial proceedings before a mayor."

Directing your attention to the provisions of Section 6298-3, supra, it will be observed, that the authority for forwarding a certified copy or transcript of a judgment rendered against a person for any of the causes set forth in Section 6298-1 (b) supra, which remains unsatisfied and not stayed as therein provided, resides exclusively in the trial court which rendered such judgment.

Coming now to your specific question, it becomes necessary to quote in part the provisions of Section 11656 and 11656-2 of the General Code.

Section 11656 provides as follows:

"Any judgment decree rendered by any court of general jurisdiction (including district courts of the United States) within this state shall be a lien upon lands and tenements of each judgment debtor within any county of the state from the time when there shall have been filed in the office of the clerk of the court of common pleas of such county, a certificate of such judgment, setting forth the court in which the same was rendered, the title and number of the action, the names of the judgment creditor or creditors, and judgment debtor or debtors, the amount of the judgment and costs, the rate of interest (if the judgment provides for interest) and the date from which interest accrues, the date of rendition of the judgment and the volume and page of the journal entry thereof; * * *.

Each such judgment shall be deemed to have been rendered in the county in which is kept the journal of the court rendering the same, in which journal such judgment is rendered. (Italics the writer's.)

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Section 11656-2 of the General Code, provides in part as follows:

"Judgment of probate courts, municipal courts, justices of the peace and other courts inferior to the court of common

pleas, may be made liens upon the lands and tenements of the judgment debtor within any county of this state in the manner provided in Section 11656 of the General Code, and not otherwise. * * * When any certificate of the judgment of any such court made by the clerk of such court or justice of the peace as the case may be, shall have been filed in the office of the clerk of the court of common pleas, and docketed and indexed therein, execution may be issued out of such court of common pleas upon such judgment and such further proceedings to enforce said judgment may be had as if the same had been rendered in such court of common pleas. * * * Such certificate of judgment shall be used instead of a transcript in every case where it is now or has been provided by law that a transcript of a judgment shall be filed in order to obtain a lien upon the lands."

The only purpose for the enactment by the legislature of the above sections was to enable a judgment, rendered by a court of general jurisdiction or by any court inferior to the Court of Common Pleas, to become a lien upon lands and tenements of a judgment debtor within any county of this state, upon the filing in the office of the clerk of the Court of Common Pleas of such county, a certificate of such judgment. It will be noted that under the provisions of Section 11656, supra, each such judgment so filed shall be deemed to have been rendered in the county in which is kept the journal of the court rendering the same, in which journal such judgment is entered. Consequently, a court of Common Pleas wherein such a certificate of judgment has been filed, assumes no jurisdiction to either review, reverse, modify or affirm such judgment. As heretofore stated, such a judgment, for all purposes, shall be considered as having been rendered by the court in county wherein is kept the journal in which said judgment is rendered.

In view of the reasons above set forth, a Court of Common Pleas, wherein is filed in accordance with the provisions of Section 11656, 11656-2, supra, a certificate of judgment rendered by a Justice of the Peace or Mayor's Court in any action for wrongful death, personal injury or damage to property, has no authority, as a matter of law to forward to the Registrar of Motor Vehicles, a report concerning the filing of said certificate of judgment. Whether such an authority is assumed is of little consequence. The Registrar of Motor Vehicles is vested with only such powers as are expressly granted by statute and, consequently, under and by virtue of the provisions of Section 6298-1 (b) supra, may only exercise the power of revocation when a person fails within thirty days to satisfy or stay the execution of the final judgment

rendered against him by a court of record of this state in an action for wrongful death, personal injury or damage to property caused by such person's individual operation of a motor vehicle .

It is therefore my opinion, in specific answer to your question, that the Registrar of Motor Vehicles has no authority under the provisions of Section 6298-1(b) of the General Code, supra, to revoke the right and privilege of a person to operate a motor vehicle upon the public roads and highways of this state, nor to revoke a license, certificate or permit to operate a motor vehicle, as chauffeur or otherwise, or to revoke a certificate of registration for a motor vehicle, upon receipt of a report from a court of common pleas wherein was filed, in accordance with the provisions of Section 11656-2, supra, a certificate of judgment rendered by a justice of the peace or mayor's court, in any action for wrongful death, personal injury or damage to property caused by a person's individual operation of a motor vehicle.

Respectfully,

HERBERT S. DUFFY,
Attorney General.

537.

APPROVAL—BONDS OF CITY OF CLEVELAND, CUYAHOGA
COUNTY, OHIO, \$100,000.00.

COLUMBUS, OHIO, April 28, 1937.

The Industrial Commission of Ohio, Columbus, Ohio.

GENTLEMEN:

RE: Bonds of City of Cleveland, Cuyahoga County,
Ohio, \$100,000.00.

The above purchase of bonds appears to be part of an issue of bonds of the above city dated June 1, 1932. The transcript relative to this issue was approved by this office in an opinion rendered to the Teachers Retirement System under date of September 30, 1935, being Opinion No. 4740.

It is accordingly my opinion that these bonds constitute a valid and legal obligation of said city.

Respectfully,

HERBERT S. DUFFY,
Attorney General.