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1. MOTOR VEHICLES—PROPERTY UNITED STATES GOVERNMENT—MAY BE LAWFULLY SOLD IN OHIO BY UNITED STATES GOVERNMENT, ITS OFFICERS AND AGENTS WITHOUT DELIVERY OF CERTIFICATE OF TITLE TO PURCHASERS.

2. CERTIFICATE OF TITLE TO MOTOR VEHICLE PURCHASED FROM UNITED STATES GOVERNMENT — — — PURCHASER SHALL MAKE APPLICATION ON PRESCRIBED FORM TO CLERK OF COURTS, COUNTY WHERE PURCHASER RESIDES—SECTION 6290-13 G. C.

3. UPON APPLICATION, ACCOMPANIED BY BILL OF SALE OR OTHER EVIDENCE OF OWNERSHIP DELIVERED TO PURCHASER BY UNITED STATES GOVERNMENT WHEN MOTOR VEHICLE PURCHASED, CLERK OF COURTS SHALL ISSUE CERTIFICATE OF TITLE—IN NAME OF PURCHASER—CLERK SHALL RETAIN BILL OF SALE OR OTHER EVIDENCE OF OWNERSHIP.

SYLLABUS:

1. Motor vehicles belonging to the United States government may be lawfully sold in this state by the United States government, its officers and agents without delivery of a certificate of title to the purchasers thereof.

2. Application for a certificate of title to a motor vehicle purchased from the United States government, shall be made by the purchaser thereof to the clerk of courts of the county in which such purchaser resides, upon the application form prescribed by section 6290-13 of the General Code.

3. Upon such application, accompanied by the bill of sale or other evidence of ownership delivered to the purchaser by the United States government upon the purchase of such motor vehicle, the clerk of courts shall issue a certificate of title in the name of such purchaser and shall retain such bill of sale or other evidence of ownership.

Columbus, Ohio, March 12, 1945

Hon. Frank N. Quinn, Registrar, Bureau of Motor Vehicles
Columbus, Ohio

Dear Sir:

This will acknowledge receipt of the communication of your predecessor, which reads as follows:

> "With reference to the provisions of the Ohio certificate of title law your opinion is requested as to whether or not this Bureau is correct in contending that in cases where the United States Government or a branch thereof sells or transfers ownership of a motor vehicle in this state it is required that an Ohio

certificate of title first be obtained in the name of the United States Government or branch thereof by surrender of 'bill of sale' or 'invoice' as supporting evidence of ownership and then assign the Ohio title to the transferee.

This Bureau has advised representatives of the United States Government that a proper Ohio certificate of title must first be obtained, then assigned and delivered to the transferee. Some of the representatives of the Government insist that because they are unable to be reimbursed for the seventy-five cent certificate of title fee that it is not necessary to first obtain a title in the name of the United States Government but that a 'bill of sale' executed and furnished to the transferee is sufficient."

The provisions of law dealing with the delivery of a certificate of title upon the sale of a motor vehicle and the effect of the failure to deliver such certificate of title are set out in Sections 6290-3 and 6290-4 of the General Code, which read as follows:

Section 6290-3.

"No person except as provided in the preceding section hereafter shall sell or otherwise dispose of a motor vehicle without delivery to the purchaser or transferee thereof a certificate of title with such assignment thereon as may be necessary to show title in the purchaser, nor purchase or otherwise acquire a motor vehicle unless he shall obtain a certificate of title for the same in his name in accordance with the provisions of this chapter."

Section 6290-4.

"No person acquiring a motor vehicle from the owner thereof, whether such owner be a manufacturer, importer, dealer or otherwise, hereafter shall acquire any right, title, claim, or interest in or to said motor vehicle until he shall have had issued to him a certificate of title to said motor vehicle, or delivered to him a manufacturer's or importer's certificate for the same; nor shall any waiver or estoppel operate in favor of such person against a person having possession of such certificate of title or manufacturer's or importer's certificate for said motor vehicle for a valuable consideration. No court in any case at law or in equity shall recognize the right, title, claim, or interest of any person in or to any motor vehicle, hereafter sold or disposed of, or mortgaged or encumbered, unless evidenced by a certificate of title or manufacturer's or importer's certificate duly issued, in accordance with the provisions of this chapter."

It will be noted that the above sections in designating those affected thereby use the words "no person". Therefore, if the word "person" cannot be construed to include the United States government, it would, of course, lead to the conclusion that the above sections would have no application to the sales of motor vehicles in question. The word "person" as used in a statute has on occasions been construed to mean natural persons only, but usually it is construed to include partnerships, firms and corporations.

In the case of Ohio v. Helvering, 292 U. S. 360, 78 L. ed. 1307, wherein the Supreme Court of the United States held that a state was a person within the meaning of such word as used in the statute then under consideration by it, it was stated that whether the word "person" includes the state or the United States depends upon its legislative environment.

The court in United States v. Cooper Corporation, 312 U. S. 600, 87 L. ed. 1071, in commenting upon the meaning to be given the word "person" in a statute, stated:

> "* * * there is no hard and fast rule of exclusion. The purpose, the subject matter, the context, the legislative history and the executive interpretation of a statute are aids to construction which may indicate an intent, by use of the term, to bring state or nation within the scope of the law."

The word "person" has been construed to include the United States government in the following cases: Stanley, et al., v. Schwalby, et al., 147 U. S. 508, 37 L. ed. 259; State of Georgia v. Evans, et al., 316 U. S. 159, 86 L. ed. 1346, and Sherwood v. United States, 112 Fed. (2nd) 587.

Even though we were to assume that the term "no person" as the same appears in Sections 6290-3 and 6290-4, supra, was intended to apply to the United States government and should therefore be so construed, we would then be confronted with the question of whether or not the Legislature of Ohio has the constitutional power to regulate, or direct the manner in which the United States government or its agents shall administer a function provided for by the Congress of the United States.

In the case of Ohio v. Thomas, 173 U. S. 276, 43 L. Ed. 700, decided (1899), it was held:

> "A governor of a soldiers' home which is under the sole jurisdiction of Congress is not subject to the state law concerning the use of oleomargarine, when he furnishes that article to the inmates of the home as part of the rations furnished for them under appropriations made by Congress therefor."

The question in said case was whether or not the provisions of an Ohio statute relating to the sale and use in restaurants of oleomargarine apply to and cover the soldiers' home at Dayton, Ohio.

When the lands occupied by such soldiers' home were acquired by the United States, jurisdiction thereover was ceded by the State of Ohio to the United States government. Obviously, if said lands had remained in such status until the facts upon which the above case rested, had occurred, the question at issue therein would summarily have been disposed of on the ground that the State of Ohio had no jurisdiction over such land. However, by an act of January 21, 1871, Congress ceded back and relinquished the jurisdiction which had theretofore been granted to the United States. Therefore, the question before the court was whether the State of Ohio had power to legislate so as to control the actions of the governor of the soldiers' home who was acting under the direction of his superiors and the authority of an act passed by the Congress of the United States.

In resolving this question, the court said:

> "In making provision for so feeding the inmates, the governor, under the direction of the board of managers and with the assent and approval of Congress, is engaged in the internal administration of a Federal institution, and we think a state legislature has no constitutional power to interfere with such management as is provided by Congress.
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> Whatever jurisdiction the state may have over the place or ground where the institution is located, it can have none to interfere with the provision made by Congress for furnishing food to the inmates of the home, nor has it power to prohibit or regulate the furnishing of any article of food which is approved by the officers of the home, by the board of managers, and by Congress. Under such circumstances the police power of the state has no application.
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> We mean by this statement to say that Federal officers who are discharging their duties in a state and who are engaged, as this appellee was engaged, in superintending the internal government and management of a Federal institution, under the lawful direction of its board of managers and with the approval of Con-

gress are not subject to the jurisdiction of the state in regard to those very matters of administration which are thus approved by Federal authority. * * *

Assuming, in accordance with the decision of the state court, the act of the Ohio legislature applies in its terms to the soldiers' home at Dayton, in that state, we are of opinion that the governor was not subject to that law, and the court has no jurisdiction to hear or determine the criminal prosecution in question, because the act complained of was performed as part of the duty of the governor as a Federal officer, in and by virtue of valid Federal authority, and in the performance of that duty he was not subject to the direction or control of the legislature of Ohio."

Similarly, in the case of Mayo v. United States, 319 U. S. 441, 87 L. Ed. 1504, it was held as disclosed by the headnotes:

"1. A corollary to the principle stated in the supremacy clause of Art. IV of the Constitution is that the activities of the Federal government are free from regulation by any state.

2. A state may not, without congressional permission, require the United States to pay a reasonable inspection fee for the inspection of fertilizer distributed to farmers by the Federal government as a part of its soil-building program.

3. The silence of Congress as to the subjection of its instrumentalities, other than the United States, to local taxation or regulation, is to be interpreted in the setting of the applicable legislation and the particular exaction."

The above action was one in which the United States sought to enjoin the commissioner of agriculture of the State of Florida and his agents from enforcing against the United States the provisions of the Florida Commercial Fertilizer Law, which law required a label or stamp upon each bag evidencing the payment of an inspection fee. The purpose of the legislation was to assure the consumers that they would obtain the quality of fertilizer for which they paid. The United States, under the direction of the Secretary of Agriculture acting under the provisions of the Soil Conservation and Domestic Allotment Act, purchased commercial fertilizer outside Florida and undertook its distribution to consumers within the State of Florida without state inspection and without paying for or affixing to the bags the inspection stamps required by the Florida act. In this case the court stated at page 447 as follows:

> "Admittedly the state inspection service is to protect consumers from fraud but in carrying out such protection, the federal function must be left free. This freedom is inherent in sovereignty."

While no doubt the certificate of title law of Ohio was at least in a measure designed to protect the purchaser of a motor vehicle from fraud and was intended in part to operate as an aid in the detection of stolen motor vehicles and detection and apprehension of persons guilty of theft thereof, yet in light of the above cases it would seem that to effectuate such objectives the federal function must be left free. Since, in the instant case, the officers and agents of the United States government engaged in the sale of the motor vehicles in question are, in the performance of their duties proceeding under an act of Congress which authorizes the sale of surplus motor trucks and automobiles (Title 10, Sec. 1265, U. S. C. A.), I find myself constrained to the view that in the performance of such duties such officers and agents are not subject to the direction and control of the General Assembly of Ohio and consequently I am of the opinion that Sections 6290-3 and 6290-4 of the General Code have no application to sales of motor vehicles made by the United States government in this state.

I am fully cognizant of the fact that the above conclusion will inevitably bring up a question concerning the issuance of certificates of title to such motor vehicles subsequent to the purchase thereof from the United States government.

In regard thereto, it seems to me that the provisions of Section 6290-5 of the General Code could properly be invoked to dispose of such question. While said section does not in terms refer to a bill of sale or other evidence of ownership from the United States government, the language thereof is in my opinion broad enough in its application to accommodate the situation. Said section reads in part:

> "Application for a certificate of title shall be made upon a form hereinafter prescribed by this chapter; and shall be sworn to before a notary public or other officer empowered to administer oaths; and shall be filed with the clerk of courts of the county in which the applicant resides if the applicant be a resident of this state or if not such resident, in the county in which the transaction is consummated; and shall be accompanied by the fee prescribed in this chapter; and if a certificate of title has previously been

issued for such motor vehicle in this state, shall be accompanied by said certificate of title duly assigned, unless otherwise provided for in this chapter. If a certificate of title has not previously been issued for such motor vehicle in this state said application, unless otherwise provided for in this chapter, shall be accompanied by a manufacturer's or importer's certificate as provided for in this chapter; or by a proper bill of sale or sworn statement of ownership, the originals of which have been duly filed with the clerk of courts, or a duly certified copy thereof; *or by a certificate of title, bill of sale or other evidence of ownership required by law of another state from which such motor vehicle was brought into this state.* The clerk of courts shall retain the evidence of title presented by the applicant and on which the certificate of title is issued. The clerk of courts shall use reasonable diligence in ascertaining whether or not the facts in said application are true by checking the application and documents accompanying same with the records of motor vehicles in his office, and if satisfied that the applicant is the owner of such motor vehicle and that the application is in the proper form, the clerk of courts shall issue a certificate of title over his signature and sealed with his seal, but not otherwise."

In the case which you present, the purchaser would, of course, be furnished with a bill of sale, receipt for money paid by him, or other evidence of ownership issued to him by the United States government, under the authority of the federal act providing for the sale of such motor vehicle. In such case the above language which empowers and requires the clerk of courts to issue a certificate of title upon the presentation of a "bill of sale or other evidence of ownership required by the law of another state" appears to afford ample authority for the clerk of courts to issue a certificate of title to a purchaser from the federal government.

Support for such interpretation of the above language can be found in many judicial pronouncements. It is by no means unusual to extend the enacting words of a statute beyond their natural import and effect. State v. Harmon, 31 O. S. 250.

Where a statute in its terms is clearly susceptible of a construction which will in its operation bring about a practical result, such construction should be accorded it. 37 O. Jur. page 629; Youngstown v. Fishel, 89 O. S. 247; Skillman v. State, 93 O. S. 210; Price v. Lamprecht, 107 O. S. 535; Rarey v. Schmidt, 115 O. S. 518; Schick v. Cincinnati, 116 O. S. 16.

Therefore, in consonance of the above and in specific answer to your question, you are advised that in my opinion motor vehicles belonging to the United States government may be lawfully sold in this state by the United States government, its officers and agents without delivery of a certificate of title to the purchasers thereof.

Respectfully,

HUGH S. JENKINS

Attorney General