

invited to the decision of the court of appeals for Tuscarawas county in the case of Dover Township vs. State ex rel. Frederick E. Hershey, as reported in 30 O. C. A., page 302, the first branch of the syllabus reading as follows:

"1 Under the present school code of Ohio there is no provision for what were known in the past as subdistricts, and the subdistrict school is, therefore, now without authority or legal existence."

It would appear, then, that the use of "subdistricts" in section 7620 G. C. means "districts", that is, the schools under the control of the board of education referred to in the section.

A question similar in a way to the one now under discussion is covered in Opinion 1616, issued on October 15, 1920, upon the question of vocational education activities, and the first branch of the syllabus of this opinion, appearing on page 1031, Vol. II, Opinions of the Attorney-General for 1920, reads as follows:

"1. A board of education can conduct its vocational classes outside the limits of the school district and can use its educational funds in the conduct of such classes."

The section of the law under which this conclusion was arrived at is section 7620 G. C., as amended in 108 O. L., page 187, the same section upon which your question rests in the present inquiry.

In reply to your inquiry it must therefore be held, as the opinion of this department, that since section 7620 G. C., has been amended as set forth in 108 O. L., Part I, page 187, a board of education may purchase property and erect a school building and control a school outside of the territorial limits of the district under its control.

Respectfully,

JOHN G. PRICE,
Attorney-General.

3214.

MOTOR TRUCKS—GROSS WEIGHT OF VEHICLE AND LOAD THAT MAY BE CARRIED UPON ONE AXLE IS INDEPENDENT OF LIMITATIONS PLACED BY SECTIONS 7246, 7247, 7248 AND 7248-1 G. C.

The provisions of section 7248-1 G. C. (109 O. L. 546-548) placing a limitation upon the percentage of gross weight of vehicle and load that may be carried upon one axle of motor trucks driven upon the public highways are independent of the limitations placed upon maximum weight of vehicle and load by sections 7246 and 7247 G. C., and independent of the limitations prescribed by section 7248, based upon tire width; and the provisions of said section 7248-1 are to be applied to all motor trucks without reference to such maximum weight or tire width.

COLUMBUS, OHIO, June 12, 1922.

HON. JOHN L. LOTT, *Prosecuting Attorney, Tiffin, Ohio.*

DEAR SIR:—You have recently requested the opinion of this office as to section 7248-1 G. C., reading as follows:

"No vehicle having more than seventy per cent of the gross weight of vehicle and load on any one axle, no vehicle having a gross weight, includ-

ing load, greater than fourteen thousand pounds on both wheels of one axle, and no vehicle equipped with solid rubber tires averaging less than seven-eighths of an inch in thickness for tires of five inches and less in width, nor less than one inch in thickness for tires of more than five inches, but not exceeding eight inches in width, nor less than one and one-eighth inches in thickness on tires of more than eight inches in width, shall be operated upon the improved highways, streets, bridges or culverts within this state. Thickness of solid rubber tires as used herein shall be the average thickness of rubber measured from the top of the flanges of the tire channel."

The question you are concerned about is whether the provisions of said section in prescribing a limitation of weight which may be carried upon one axle are to be applied to all motor trucks without regard to weight of vehicle and load; or to be applied only to such motor trucks as are carrying the maximum weight including weight of vehicle and load allowed by law (sections 7246 and 7247 G. C).

In the view of this office, the provisions of said section 7248-1 are to be applied to all motor trucks regardless of weight. As you know, said section 7248-1 is part of the so-called Burke Law (109 O. L. 546) which enacts much original legislation regarding weights, etc., of motor vehicles driven upon the public highways. Not only is there a maximum limitation prescribed for weight of vehicle and load, but there are other limitations, such for instance, as those set out in section 7248 G. C. limiting the number of pounds which may be carried upon each inch of tire width. Clearly, these provisions as to weight with reference to tire width are interior limitations entirely independent of maximum weight limitations.

No reason is perceived for thinking that the provisions of section 7248-1 are different in principle from those in section 7248. In other words, the provisions of section 7248-1 limiting weight of load as to one axle are independent of the provisions of sections 7246 and 7247 as to maximum weight of load.

It is quite true that the main purpose of the so-called Burke Law was to prevent the driving of excessively heavy loads upon the public highways of the state; and it may be that from a practical standpoint the provisions of section 7248-1 are much more drastic than is necessary to accomplish the general object of the law. Considerations along this line, however, are not admissible as an argument against accepting at their face value the clearly expressed terms of the section in question.

You also mention the limitation based on width of tire, as set out in section 7248 G. C. Clearly, the limitations in section 7248-1 are just as much independent of those of section 7248 as they are of those of sections 7246 and 7247.

While the point is not directly involved in your inquiry, it may be observed that, taken from a practical standpoint, the first clause of section 7248-1, G. C.,

"No vehicle having more than seventy per cent of the gross weight of vehicle and load on any one axle"

was doubtless intended to refer to vehicles having more than one axle; while the second clause of said section

"no vehicle having a gross weight, including load, greater than fourteen thousand pounds on both wheels of one axle,"

when read in the light of the first clause, was probably intended to reach the case of vehicles having only one axle, as for instance, a two-wheeled trailer.

Respectfully,

JOHN G. PRICE,

Attorney-General.