

the teachers and superintendents attending their regular salary for the day and cannot pay extra compensation for daily attendance of the institute in addition to regular salary.

Respectfully,

HERBERT S. DUFFY,

Attorney General.

648.

JUSTICE OF PEACE—LICENSE TO OPERATE MOTOR VEHICLE, SUSPENSION, REVOCATION—AUTHORITY IN COURTS OF RECORD.

SYLLABUS:

A justice of the peace has no authority to suspend or revoke the license of an operator of a motor vehicle who has been convicted of or pleads guilty to an offense resulting from such persons' operation of a motor vehicle, as such power, under the provisions of Sections 6296-17 and 6296-30 of the General Code, is limited to courts of record.

COLUMBUS, OHIO, May 24, 1937.

HON. FRANK T. CULLITAN, *Prosecuting Attorney, Cleveland, Ohio.*

DEAR SIR: This will acknowledge receipt of your recent communication, which reads as follows:

"A case has arisen in this county in one of the townships where the operator of a motor vehicle ran his automobile into some mail boxes and a telephone pole. This man was charged with driving while intoxicated and brought before the Justice of the Peace in that township.

The Justice of the Peace has raised the question of whether or not he has a right to suspend, for a period of time, the license of this driver inasmuch as the driver has entered a plea of guilty to the operation of a motor vehicle while under the influence of intoxicating liquor.

The question, therefore, is: can a justice of the peace suspend or revoke the license of the operator of a motor vehicle

under Section 6296-17 of the General Code and the laws of Ohio?

In view of the decision of the Supreme Court in the case of *State of Ohio vs. Allen*, 117 O. S. 470, it would seem that a justice of the peace does not have this power. On the other hand, it seems strange that the legislature would make such a provision for the suspension of licenses in flagrant cases and not give the power to suspend to mayors and justices of the peace.

An early opinion from you will be appreciated."

Since the only authority conferred upon courts of this state to suspend or revoke the license of an operator of a motor vehicle who has been convicted of or pleads guilty to any offense arising from such person's operation of a motor vehicle, is that granted under the provisions of Sections 6296-17 and 6296-30 of the General Code, this opinion to a certain extent will be predicated upon the pertinent provisions of these sections, which read as follows:

Section 6296-17.

"The trial judge of any court of record shall, in addition to, or independent of, all other penalties provided by law or ordinance, suspend for any period of time or revoke the license of any person who is convicted of or pleads guilty to any of the following crimes:

1. Manslaughter resulting from the operation of a motor vehicle.
2. Operating a motor vehicle while under the influence of intoxicating liquor or narcotic drug.
3. Perjury or the making of a false affidavit under this act or any other law of this state requiring the registration of motor vehicles or regulating their operation on the highway.
4. Any crime punishable as a felony under the motor vehicle laws of this state or any other felony in the commission of which a motor vehicle is used.
5. Failing to stop and disclose identity at the scene of the accident when required so to do by law.

After an operator's or chauffeur's license has been suspended or revoked, the trial court shall cause the offender to deliver to the court such license and the court or clerk thereof shall, if such license has been suspended, retain possession thereof during the period of suspension and shall immediately notify the registrar of the action of the court. If such license

has been revoked, the court, or the clerk thereof, shall forthwith forward to the registrar such license together with notice of such revocation."

Section 6296-30.

"* * * * * * * * *

(b) Whenever a person is found guilty under the laws of this state or any ordinance of any political subdivision thereof, of operating a motor vehicle in violation of such laws or ordinances, relating to reckless operation, the trial court of any court of record may, in addition to or independent of all other penalties provided by law, suspend for any period of time or revoke the license to drive of any person so convicted or pleading guilty to such offenses for such period as it may determine, not exceeding the period of one year."

As it will be noted, the provisions of the sections of the General Code above quoted, in clear and unambiguous language, limits the power of suspension or revocation of a person's license to operate a motor vehicle to courts of record. Consequently, the only question left for determination is whether or not a justice of the peace is a "court of record." The case of the *State of Ohio vs. Allen*, 117 O. S. 470, is dispositive of this question. The court, in deciding a justice of the peace is not a court of record, on page 479 of the opinion, said:

"It is not necessary in this case to determine the faith and credit to be given to the record of a justice of the peace, but it is necessary to determine whether or not a justice of the peace is a court of record. Without determining the former question, and leaving that much confused problem to be determined in a proceeding where it is directly involved, we have reached the conclusion, that, by reason of the fact that the Constitution clearly creates two classes, the more important class cannot include those tribunals which occupy the lowest stratum in the exercise of judicial authority. It must be apparent from what has been already said that a justice of the peace occupies that position, and whatever tests might properly be applied to determine the abstract question as to his being a court of record, and whatever the result of such tests might be, we have no hesitation in saying that, in the interpretation of Section 6 of Article IV of the Constitution, and in determining whether or not a justice of the peace comes within the classification of courts of record, that determination must be in the negative."

It is a fundamental principle of law that there is no occasion for resorting to rules of statutory construction when the language of the statute is plain and unambiguous and conveys a clear and definite meaning. It is further a fundamental principle of law that any other construction than that which the words of the statute demand should be avoided, and that it is not permissible, even to give effect to what may be supposed to have been the intention of the legislature, to place upon the provisions of a statute a construction not supported by the terms thereof. In this connection, your attention is directed to the case of *Slingluff, et al., vs. Weaver, et al.*, 66 O. S. 621, wherein it was held as disclosed by the second branch of the syllabus, that:

“* * * the intent of the law-makers is to be sought first of all in the language employed, and if the words be free from ambiguity and doubt, and express plainly, clearly and distinctly, the sense of the law-making body, there is no occasion to resort to other means of interpretation. The question is not what did the general assembly intend to enact, but what is the meaning of that which it did enact. That body should be held to mean what it has plainly expressed, and hence no room is left for construction.”

Although it is to be admitted that it is difficult to conceive just why the Legislature, in the enactment of the Drivers' License Law, Sections 6296-1, et seq., of the General Code, saw fit to limit to courts of record the power of suspending or revoking a person's license of operating a motor vehicle, yet, it is not within my province to question the wisdom or reasonableness of its enactment. The consequences of the law, if objectionable, may only be avoided by a change of the law itself, to be effected by legislative action.

It is therefore my opinion, that a justice of the peace has no authority to suspend or revoke the license of an operator of a motor vehicle who has been convicted of or pleads guilty to an offense resulting from such person's operation of a motor vehicle, as such power, under the provisions of Sections 6296-17 and 6296-30 of the General Code, is limited to courts of record.

Respectfully,

HERBERT S. DUFFY,

Attorney General.