

3110.

APPROVAL, BONDS OF AUGLAIZE COUNTY, \$124,000, FOR ROAD IMPROVEMENTS.

COLUMBUS, OHIO, May 17, 1922.

Department of Industrial Relations, Industrial Commission of Ohio, Columbus, Ohio.

3111.

APPROVAL, FINAL RESOLUTIONS FOR ROAD IMPROVEMENTS IN RICHLAND AND ROSS COUNTIES.

COLUMBUS, OHIO, May 17, 1922.

Department of Highways and Public Works, Division of Highways, Columbus, Ohio.

3112.

WEIGHING JACKS—COUNTY COMMISSIONERS MAY, UNDER SECTION 2419 G. C., PURCHASE SAID JACKS FOR USE IN ENFORCEMENT OF SECTION 7246 G. C. (109 O. L. 546).

County commissioners may in their discretion under authority of section 2419 G. C., purchase weighing jacks for use in the enforcement of the provisions of sections 7246 G. C. as amended, 109 O. L. 546, et seq., and relating to weights of vehicle and load upon the public highways.

COLUMBUS, OHIO, May 18, 1922.

HON. LAWRENCE H. WEBBER, *Prosecuting Attorney, Elyria, Ohio.*

DEAR SIR:—YOU inquire whether your county commissioners have authority to purchase weighing jacks for use by deputy sheriffs in weighing trucks upon the road to see that they are not overloaded.

Your inquiry is somewhat more broadly stated than is necessary to a solution of the point involved; since the authority in question does not, for reasons herein-after pointed out, turn on the question whether the jacks are to be used "on the road". If they may be purchased at all, the purchase might just as well be for use at one central point, such as the court house grounds; and your inquiry will accordingly be answered upon this narrower basis.

Your inquiry has its origin in the amendments to sections 7246 et seq. as made by an act found in 109 O. L., page 546. That act, after prescribing maximum weights for vehicles and loads upon the public highways, makes further provision that

"the sheriff of any county is hereby authorized to detail one or more deputies for the special work of enforcing the provisions of this act for such periods of time and in such manner as he shall deem necessary."

The answer to the question is to be found not in any specific provision for the purchase of weighing jacks, but in the provisions of section 2419 G. C. found in the chapter relating to county commissioners and reading as follows:

"A court house, jail, public comfort station, offices for county officers and an infirmary shall be provided by the commissioners when in their judgment they or any of them are needed. Such buildings and offices shall be of such style, dimensions and expense as the commissioners determine. *They shall also provide all the equipment, stationery and postage, as the county commissioners may deem necessary for the proper and convenient conduct of such offices, and such facilities as will result in expeditious and economical administration of the said county offices.* They shall provide all room, fire and burglar-proof vaults and safes and other means of security in the office of the county treasurer, necessary for the protection of public moneys and property therein."

The powers thus conferred are believed to include authority in the county commissioners to make the purchase in question if in their discretion they desire to do so.

The conclusion just stated has not been arrived at in the absence of consideration of two previous opinions of this department, the first appearing in Opinions of Attorney-General, 1918, Vol. I, p. 786; and the second in 1920 Opinions, Vol. II, p. 977. In the latter opinion the view was expressed that prosecuting attorneys might under the provisions of section 3004 G. C. purchase scales or other weighing devices whenever such purchase might be found reasonably necessary to the procuring of evidence against persons violating the traffic laws of the state. That view was predicated among other things upon the theory, as stated in the course of the opinion, that the purchase of scales or other weighing devices for the purpose in question was not "otherwise provided for",—that is to say, not provided for otherwise than in section 3004 G. C. It is quite true that at the time of the rendition of said opinion, section 2419 was in force in the form above quoted, though that section is not mentioned specifically in the course of the opinion. It is important to note, however, that since the rendition of said opinion, the amendments to sections 7246 et seq. have gone into effect, providing among other things in the above quoted language that the sheriff is especially charged with the duty of enforcing the provisions of said sections 7246 et seq. The language above quoted from said amendments does not contemplate a mere passive course on the part of the sheriff, but on the contrary, charges that officer with the duty of actively proceeding with the enforcement of the provisions of said amendments. With this in mind, it becomes plain that the underscored portion of section 2419, especially in the use of the word "facilities" is ample in scope to confer the authority now in question. It may not fairly be said that the word "facilities" is to be limited in its application to mere office equipment as ordinarily understood; for we find the word "facilities" used in connection with the words "expeditious * * * administration" of the county offices; and certainly expeditious administration of the sheriff's office includes the prompt handling of traffic violations, not only as concerns the general public, but also the accused. As to the first of the two previous opinions above cited, it is to be said that the underscored language of section 2419 has been inserted in that statute by amendment since the rendition of said opinion.

Respectfully,

JOHN G. PRICE,
Attorney-General.