

import would and could have been used to modify the word 'certificate.'

“* * *

“We therefore hold that under the provisions of Sections 614-87 and 614-87a, General Code, the Public Utilities Commission of Ohio is not vested with authority, express or implied, to consent to the transfer of a part of a certificate of convenience and necessity to a purchaser thereof.”

Based upon the authorities last stated above, it is my opinion that the Commission would have no authority to approve a petition asking for a sale and transfer only of a part of a certificate.

OFFICIAL OPINION NO. 91

October 1, 1946.

Hon. Austin R. Killian, Commissioner,
Division of Public Safety of the
State Police Department,
State House,
Indianapolis, Indiana.

Dear Sir:

I have your letter of September 11, which I quote:

“I desire an official opinion touching upon the following matters. Par. (a), Sec. 9 of Chapter 175 of Acts of 1943 provide:

“(a) The clerk of a court or the judge of a court which has no clerk, in which any person is convicted of any offense under the laws of this state which requires or authorizes the commissioner to suspend or revoke the operator's or chauffeur's license of any person shall, when, such conviction has become final, or in such other event as stated in Section 5 (e) hereof, forthwith forward to the commissioner a certified record of such conviction or of the proceedings upon such charge.

“Question 1. What is a final conviction within the meaning of the above paragraph?”

“Question 2. Within what period of time following the conviction as defined by the answer to question number one should the clerk or judge certify the same to this department?”

“Question 3. What portion of the record would constitute a certified record of such conviction?”

The first question deals with the proper interpretation to be placed on the phrase “such conviction has become final.” Ordinarily, the courts have construed “final conviction” to mean conviction which has been affirmed on appeal or conviction where appeal has been waived.

Adams v. State, 125 S. W. (2d) 583, 136 Tex. Cr. R. 331;

Ringer v. State, 129 S. W. (2d) 654, 656, 137 Tex. Cr. R. 242;

Ashcraft v. State, Okl. Cr. App. 94 P. (2d) 939, 945.

However, such interpretation in this case would render the following Section of the amendatory Act of 1945 meaningless.

“Any suspension or revocation under this Section shall stand pending appeal of such conviction to a higher court, and shall be set aside or modified only upon the receipt by the Commission of the certificate of the court reversing or modifying such judgment, or the Clerk thereof that such cause has been reversed or modified.”

It is a rule of statutory construction that the various provisions of an Act be so interpreted, if possible, as to combine in a harmonious whole.

Vandalia R. Co. v. Stillwell, 181 Ind. 267, 104 N. E. 289;

Morrison v. State *ex rel.* Free Kindergarten & Childrens Aid Society, 181 Ind. 544, 105 N. E. 113;

Cox v. Timm, 182 Ind. 7, 105 N. E. 479.

This result can be accomplished by assuming the legislature intended that "such conviction has become final" when final judgment has been rendered by the trial court. A judgment is rendered when it is pronounced or given by the court. The rendition of the judgment is the act of the court, the entry of the judgment is the act of the clerk.

Anderson Adm'x v. Mitchell et al., 58 Ind.
592-594;
Mayer v. Haggerty, 138 Ind. 628-631;
Pittsburg etc. R. Co. v. Johnson, 49 Ind. App.
126.

This interpretation is not unreasonable and will permit full effect to be given the section of the 1945 amendatory Act quoted.

The second question calls for a definition of the term "forthwith" as used in this Act. This term has been defined many times in decisions throughout the United States and is usually considered to be synonymous with "promptly". Numerous cases have held that where one is required under a statute to perform some act "forthwith", he should do the same not necessarily at once but as soon as practicable in the ordinary course of events, and without undue delay.

Haisten v. State, 59 So. 361, 362, 5 Ala. App. 56;
Peloquin v. Hibner, 285 N. W. 380, 384, 231 Wis.
77.

There is nothing to indicate that "forthwith" as used in this statute should not be given the ordinary meaning.

Question 3. The record of conviction consists of the charge, plea, the finding if a trial be had, and the judgment of the court.

Commonwealth v. Minnich, 95 A. 565, 567, 250
Pa. 363, L. R. A. 1916B, 950;
United States *ex rel.* Guarino v. Uhl, D. C. N. Y.,
27 F. Supp. 135, 136;
Courtney v. Eighth Ward Bank, 35 N. Y. S.
1049, 1050, 14 Misc. 386;
Ehrlich v. Mulligan, 140 A. 463, 465, 104 N. J.
Law. 375, 57 A. L. R. 596.

A "certified" record is one which is attested in writing.

Smith v. Smith (Indiana) 110 N. E. 1013.

A certification or attestation by the Clerk or Judge to the effect the document forwarded is a true copy of the original record should meet the requirements of the statute.

OFFICIAL OPINION NO. 92

October 2, 1946.

Hon. Clarence E. Ruston,
State Examiner,
State Board of Accounts,
State House,
Indianapolis, Indiana.

Dear Sir:

Your letter of September 13, 1946, received requesting an interpretation of Section 2, Chapter 295 of the Acts of 1945, your questions being as follows:

"First: Is there any statute authorizing payment to the chief deputy sheriff for mileage?

"Second: If your answer to the first question is in the negative, can a chief deputy sheriff referred to in the section above quoted, lawfully claim and receive the sum of eighty-five cents per day for each day he serves as such chief deputy?

"Third: If your answer to question two (2) is in the affirmative, would it be a requirement that such chief deputy sheriff use his own conveyance in the performance of official duties to lawfully claim and receive the allowance of eighty-five cents per day?

"Fourth: If your answers to questions two (2) and three (3) are in the affirmative and assuming that the official duties performed by such chief deputy, include services such as 'service of process' and 'transporting prisoners and/or patients', can the *sheriff* lawfully claim and receive the mileage fees provided by law