the United States effective as of 2320 hours, Eastern Daylight Time, 24 July 1967.

The various units of the Michigan National Guard were released from active duty on July 26, 1967, August 2, 1967 and August 9, 1967.

The veterans' homestead tax exemption refers to soldiers and sailors, which are defined by subdivision 11(k) as

> "* * * persons of either sex and shall include any persons serving in the armed forces of the United States * * *."

It would appear that members of the Michigan Army National Guard and Air National Guard called to active military service of the United States fall within the statutory definition and are thus entitled to claim the benefit of the Veterans' Homestead Tax Exemption. Specifically, they are entitled to obtain a refund of 1967 property taxes, if already paid pursuant to the provisions of subdivision 11(f) of § 7, and are further entitled to claim the exemption for the year 1968 by the filing of an affidavit during the statutorily specified time, i.e., between December 31, 1967 and the adjournment of the local Boards of Review in March.

Thus, in answer to your question I advise that members of the Michigan National Guard called to active military service of the United States are entitled to the Veterans' Homestead Tax Exemption for the year during which they served as soldiers and sailors of the U.S. government, as well as the year thereafter, provided that they are otherwise eligible, i.e., (a) are not in receipt of income exceeding $7,500 for the calendar years in question, (b) do not own taxable property of a greater value than $10,000 state equalized valuation, and (c) possess the necessary residence requirements.

FRANK J. KELLEY,
Attorney General.

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PISTOLS: Purchase License; Exceptions.

Under Section 2 of Act 372, Public Acts of 1927 as amended, license is not required for retail purchase of pistols of ancient design, where such pistols, though being currently manufactured, are not made for modern ammunition.

Within the exceptions provision of said Section 2, the requirement "not made for modern ammunition" applies to "relics" and "curios" as well as to "antiques."

No. 4440 September 25, 1967.

Honorable Donald A. Burge
Prosecuting Attorney
Kalamazoo County
County Building
Kalamazoo, Michigan 49006

I herewith reply to your request for my opinion interpreting Section 2 of Act 372, Public Acts of 1927 as amended, particularly as applied to pistols

which, though currently manufactured in sizeable volume, are of ancient design and not made for modern ammunition.

From your letter I understand that quantities of muzzle loading pistols, newly manufactured but of ancient design (flintlock, percussion cap, etc.), have been offered for sale in your county. They are not made for modern ammunition.

Subject Section 2 of Act 372, Public Acts of 1927 as amended (M.S.A. 1965 Cum. Supp. § 28.92 et seq.; C.L. 1948, § 28.422 et seq.), after first stating, among other requirements, that "No person shall purchase a pistol without first having obtained a license therefor as prescribed herein. . . .," thereafter declares the following exception:

> ". . . The provisions of this section shall not apply to the purchase of pistols from wholesalers by dealers regularly engaged in the business of selling pistols at retail, *nor to the sale, barter, or exchange of pistols kept solely as relics, curios, or antiques not made for modern ammunition or permanently deactivated. . .*" (Emphasis added.)

Precisely considered therefor, our question is whether such pistols require licensing under the general provisions of Section 2, or fall within the quoted exception. This of course involves construction of the statutory language of said exception.

The object of statutory construction is to ascertain and carry into effect the intention of the legislature. *Elba Township v. Gratiot,* 287 Mich. 372 (1939); *Smith v. City Commissioner of Grand Rapids,* 281 Mich. 235 (1937).

From Act 372 it is inferable that the basic concern of the Legislature here was with pistols having a real potential for unlawful use. This impression of general legislative intent is borne out by the following language of the exception:

> ". . . pistols *kept solely* as relics, curios, or antiques not made for modern ammunition or permanently deactivated . . ." (Emphasis added.)

In other words, pistols *originally* (e.g. at time of purchase) meriting description as "relics, curios," etc., "not made for modern ammunition," and thus being excepted from licensing, must thereafter, to warrant a continuing excepted status, be *"kept solely"* as such. Otherwise, licensing is required.

Having established a general legislative intent, let us examine the text of the quoted exceptions provision in an effort to discern specific intent as to the subject pistols.

Regrettably, Michigan cases yield us no legal definition of "relic," "curio" or "antique." Likewise, Words And Phrases, American Jurisprudence, and Corpus Juris Secundum, leave us similarly without enlightenment except as to "antique." As to the latter, both 3 Corpus Juris Secundum (1966 Cumulative Annual Pocket Part) 226, and 3A Words And Phrases (1966 Cumulative Annual Pocket Part) 6, quote *State v. Schuster,* 145 Conn. 554, 145 A. 2d 196, 198 where the court adopted the following definition from Webster's New International Dictionary (2nd Edition):

> "In general, anything very old; . . . a relic or object of ancient art, collectively the *antique,* the remains or style of ancient art, as busts, statues, paintings, and vases; . . . a piece of furniture, tableware, or the like, *made at a much earlier period than the present:*" (Emphasis added.)

Thus, we parenthetically note at this point, our subject pistols, being of current manufacture, fail to fall within the legal definition of "antiques." This somewhat complicates our problem of construction because, as the language of the exceptions provision is written, its punctuation indicates application of the clause, "not made for modern ammunition," *only* to "antiques." This of course is because no comma is used after the word "antiques," so as properly to correlate said clause to "relics" and "curios." These considerations are of some moment because it is obvious that the best claim of the subject pistols (within the aforesaid general legislative intent) to excepted status would be that they are "not made for modern ammunition." What, therefore, did the Legislature intend in this connection? Is punctuation a controlling factor as to its intent?

Before, however, we undertake answer to the latter questions, let us first determine whether the subject pistols are "relics" or "curios."

Webster's Third New International Dictionary (Unabridged) defines "relic" as "something that serves as a remembrance of a person, place, or event; souvenir, memento."

It seems at once apparent that while the subject pistols might have been manufactured as synthetic "relics" within the said definition, no such feature has been mentioned as part of their presented description. Certainly they are *not necessarily* "relics." Clearly, of course, they partake in no way of the essential character of true "relics" as things left (L., *relinquere*) behind. Accordingly, it is at least doubtful that the subject pistols are "relics."

Are they "curios"? Webster's Third New International Dictionary (Unabridged) defines "curio" as "something arousing interest as being novel, rare or bizarre; curiosity." Here, finally, the subject pistols definitely fit. New of manufacture, yet ancient of design and incapable of using modern ammunition, they assuredly warrant description as "something arousing interest as being novel . . . or bizarre; curiosity."

Having established that the subject pistols are "curios" (and knowing that actually they are not made for modern ammunition), may we further validate their excepted status under the statute by correlating, as a matter of legislative intent, the clause "not made for modern ammunition," with said word "curios"? Specifically, does punctuation so control statutory construction that the absence of a comma after "antiques," precludes our finding of a legislative intent thus to correlate said clause and word?

It seems not. Speaking in what appear to be the leading Michigan cases on this subject, our Supreme Court has severally held as follows:

> ". . . punctuation alone is a very unsafe guide in construing an act of the Legislature; . . ." Campau v. Dewey, 9 Mich. 381, 406 (1861).
>
> ". . . Relator's position is based largely upon the punctuation and upon rules of grammatical construction, and while these rules have been applied for the purpose of ascertaining the meaning of a statute,

nevertheless they must yield to a clearly disclosed legislative intention." Klug v. Auditor General, 194 Mich. 41, 45 (1916).

" 'Where the language of a statute, in its ordinary meaning and grammatical construction leads to a manifest contradiction of the apparent purpose of the enactment or to some inconvenience or absurdity, hardship or injustice, presumably not intended, a construction may be put upon it which modifies the meaning of the words and even the structure of the sentence. This is done sometimes by giving an unusual meaning to particular words; sometimes by altering their collocation; or by rejecting them altogether; or by interpolating other words; under the influence, no doubt, of an irresistible conviction * * * that the modifications thus made are mere corrections of careless language, and really give the true intention.' " Attorney General v. Detroit United Ry., 210 Mich. 227, 254 (1920); City of Grand Rapids v. Crocker, 219 Mich. 178, 183 (1922).

Accordingly, it appears that the word "curios" (and, of course, "relics") *may* be correlated with the clause, "not made for modern ammunition." Such construction, it must be conceded, however, while it would *further* validate the particular claim of the subject pistols to excepted (from licensing) status under the statute, would have the general effect of sharply narrowing the provisions of the exception, because it additionally requires of "relics" and "curios" (as well, of course, as "antiques") that they be "not made for modern ammunition." Finally, then, *should* the indicated correlation be made? Is there basis for such construction of the exception?

Certainly it would ill suit the general legislative intent, as earlier established herein, unqualifiedly to except "relics" and "curios." They (if not the "relics," then surely the "curios") might well be "made for modern ammunition," and thus have the potential for inflicting harm, which, we found, it was the legislative intent to license and regulate. Accordingly, correlation of the clause, "not made for modern ammunition," with the words "relics" and "curios," is so logically consistent with said established *general* legislative intent, that it is difficult, if not impossible, to conceive the Legislature *not* so intending.

Is there, however, better basis for correlation; more specific and compelling reason to supply, so to speak, the missing comma after the word "antiques"?

There is, and it would seem conclusive. In Section 9 of said Act 372, Public Acts of 1927 as amended (M.S.A. § 28.97; C.L. 1948, § 28.429), the Legislature's almost immediately juxtaposed (to subject Section 2) provisions for "safety inspection" specify the following exception thereto:

> "The provisions of this section shall not apply to wholesale or retail dealers in firearms or to collections of pistols kept solely for the purpose of display, as *relics, curios or antiques, not made for modern ammunition or permanently deactivated* . . ." (Emphasis supplied.)

Thus, in a closely parallel exception which is partially identical in its language, the identical clause, "relics, curios or antiques, not made for modern ammunition," does include a comma after the word "antiques."

The inference, then, of legislative intent is irresistible. It is deemed not

only unlikely, but impossible, that in two identical situations, the Legislature would in one require that "relics" and "curios" be also "not made for modern ammunition," and in the other generally except them, especially when the latter result is accomplished by no more than the omission of a comma. As for any suggestion that it is the presence of the comma (in Section 9) which is the error, it must be remembered that we now have, in two factually and legally analogous situations, ostensible evidence of conflicting legislative intent. The applicable rule is too elementary to require citation of authority. That interpretation should be adopted which is consistent with the general legislative intent. The latter has been established at length. Accordingly, it is found that, in the exception provisions under Section 2, the Legislature intended to apply the clause, "not made for modern ammunition" to "relics" and "curios," as well as to "antiques." This opinion so rules.

Since the subject pistols clearly qualify under the said exception as herein interpreted, they do not require licensing.

FRANK J. KELLEY,
Attorney General.