

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY-GENERAL

FOR THE TWO YEARS ENDING

NOVEMBER 30, 1914.

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AUTOMOBILES.—REGISTRATION OF.

18h April, 1914.

Hon. J. E. Alexander, Secretary of State, Augusta, Maine.

DEAR SIR: Referring to our conversation of Wednesday, I understand your question to be whether or not a garage owner keeping and operating automobiles for hire shall be allowed, under Section 9 of Chapter 162 of the Public Laws of 1911, to register the cars so kept and operated for hire as a dealer; that is, whether he shall be allowed to register his several cars under a general distinguishing number or be held to the requirement of a separate registration for each car.

I think there is no doubt but that he should be held to a separate registration for each car and that Section 9, which provides for a dealer's registration, is meant to apply (excluding manufacturers) only to persons engaged in the sale of cars and not to the renting or hiring of the same.

The method of registration is set forth in Section 8 of said chapter as follows: The owner or person in control shall apply for registration setting forth certain material facts. The fee for such registration to be determined, first, from the horse power of the car itself, and second, from the use to which such car is to be applied. Under this section there is no provision by which more than one car could be included in any registration, and each registration would require a separate statement of facts and a separate registration fee. Section 9 then goes on to provide for registration of a particular kind by a particular class of persons and by its terms is limited to "every manufacturer of or dealer in motor vehicles." It is an exception to the general rule laid down in Section 8. Unless the garage owner can bring himself within the terms of that exception then clearly there is no basis for a claim on his part to be permitted to register more than one car under any single application or fee.

It will not be contended for a moment that a garage owner comes within the first of the description of that section, namely, a manufacturer. He can expect the benefit of the exception only, if at all, by qualifying under the second of said descriptions, that is, a dealer. By reference to the dictionaries and

decided cases, I find that the term "dealer" is universally limited to persons "engaged in the business of selling commodities." The Century Dictionary and Webster's Dictionary define a dealer as a "distributor," "one whose business is to buy and sell goods," or who "makes a business of buying and selling goods, etc."

In Words and Phrases under the term "dealer," numerous cases are cited, the substance of which is the same, i. e. that a dealer is "one who makes successive sales as a business." 37 Mich. 506. The trend of the authorities then would seem to negative any construction that would permit of including garage owners within the particular class of persons who are meant to benefit under this section.

Turning to the act itself, we find that in Sections 9 and 10 which speak of manufacturers and dealers and create this special right, references are made to sales by these parties. The registration provided, is by its own terms declared to terminate when a sale is made. In Section 10 certain duties are imposed on manufacturers or dealers at the time of making such sale. These things would seem to show the intent of the act to conform to the accepted meaning of the term "dealer" and "manufacturer," and I have no hesitation in advising you that garage owners throughout the State should be held to the same requirements in the registration of cars as any private owner who maintains more than one car in his own garage,

Very sincerely,

HAROLD H. MURCHIE,

Asst. Attorney General.