

MAINE STATE LEGISLATURE

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June 13, 1917

To Frank H. Haskell, Esq.
Re: Fees on Change of Registration

I suppose some men never change their minds, but I do, and when I am in error do not hesitate to acknowledge my mistake upon discovery or realization of my shortcoming.

I have given Section 29 of Chapter 26 of the Revised Statutes of 1916 some very serious consideration since you and I discussed the same yesterday. Perhaps you will remember that we confined our consideration to the first part of that section and did not discuss the latter part. I will say that I did not even read it over at that time. From my very casual and hurried examination of the first part of the section when you were here in the office, I announced to you that, in case the horse power of a motor vehicle offered for registration exceeded the horse power of a motor vehicle previously registered, the fee properly chargeable by the Secretary of State was the difference between the amounts of registration fees originally provided for the respective horse powered vehicles and did not include a charge of \$2. in addition thereto.

I am convinced that my opinion of the law thus given was hasty and not in accordance with the true interpretation of the section. It appears to me, in looking for the true meaning in this first part of the section, we must consider all parts of the section. Standing alone, the first part of the section down to the words "greater horse power" might perhaps properly receive such a construction as I gave it. Taking the whole section into consideration, however, I am convinced that such was not the intention of the Legislature.

Three distinct propositions as to new registration are presented in this section.

First: The new registration of a vehicle of the same horse power as a vehicle originally registered;

second: The registration of a vehicle of greater horse power than the originally registered vehicle;

Third: The registration of a vehicle of less horse power than the one which was originally registered.

In the case of a vehicle of the same horse power there is no question that the fee is \$2.00 and that the State makes no charge whatever beyond that sum. In the case of the third, namely, an automobile of less power than the one originally registered, the State makes a charge of \$2.00, but also provides that a rebate shall be made to the owner of one half the difference between the fees which would have been chargeable in the first instance. In the case of new registration of lesser horse power vehicle, you will note the language, which is, a person who may exchange an automobile, etc., and procure a certificate of registration, paying therefor a fee of \$2.00, shall receive a rebate, etc. The language there is that the person shall pay a fee

of \$2.00 for the certificate of registration. This language, I think, can be fairly interpreted not to be intended to refer to the annual registration fee. Until the individual has procured his certificate he is not entitled to a rebate. He can only procure such certificate by paying \$2.00 for such a certificate. The rebate is in addition to, and in a sense independent of, the fee for the certificate of registration. The procuring of the certificate and the paying of the fee therefor is a condition precedent, to be sure, but the rebate is a distinct right granted by the Legislature.

Now returning to the first contingency contemplated in this section, we find that the person applying to the Secretary of State for a registration of another automobile shall receive a certificate of registration and number plates upon the payment of a fee of \$2.00, provided the horse power is the same as that of the former automobile, etc. I think we may fairly conclude from the provisions as to lesser horse power that it is the intention of the Legislature that a person should pay a fee of \$2.00 to the Secretary of State, in any event, for a certificate of registration. I think we may fairly conclude that the payment of a fee of \$2.00 in the first part of the section is for the certificate of registration and number plates. It is to cover the expense of the State in making a record of the registration, issuing a certificate of registration and furnishing plates, which, of course, are purchased by the State and cost the State actual money. Section 23 of Chapter 26 provides that motor vehicles shall be registered; that an application for such register containing certain particulars shall be made to the Secretary of State, and that an annual registration fee shall be deposited with such application:— \$5.00 for automobiles of 20 horse power and under, \$10.00 for automobiles between 20 horse power and including 35 horse power, \$15.00 for automobiles over 35 horse power. Certain definite scheduled fees for motor trucks, motor cycles and traction engines are also therein specified. The Secretary of State shall register the motor vehicle, give to the owner a distinguishing number, issue a certificate of registration, furnish two enameled iron plates, etc. A proper record of application for registration of all certificates issued shall be kept. Registration plates, seal or other distinguishing mark for automobiles, etc., shall be furnished free from the office of the Secretary of State. Plates lost, etc., may be replaced for seventy-five cents each. Such is the general provision as to registration of motor vehicles. Section 29, which we are discussing, is an additional provision and perhaps may be deemed an exception to the general provision.

By Section 23 it is provided that an automobile, for illustration, of less than 20 horse power shall pay only \$5.00 as an annual registration fee. On the other hand, \$10.00 shall be paid as an annual registration fee for an automobile of 20 to 35 horse power. Undoubtedly it was intended by the Legislature that the State should receive the full amount of the registration fee provided; and, as the basis of the annual registration fee is horse power, an increase in horse power by exchange would entitle the State to the annual registration fee provided for such higher power. An increase in the capital stock of a corporation requires the payment of an increased annual franchise tax. However, I think I am correct in saying that an increase in capital stock must be recorded by the Secretary of State and a recording fee paid therefor in addition to the increased franchise tax required.

It seems to me that the Legislature intended a fee of \$2.00 should be paid to the Secretary of State, not as an additional annual registration fee, but as a fee to cover the cost of doing the clerical work necessary to issue a new certificate of registration, make a new record of application and issuance of certificate, and cover the expense of new plates furnished. This fee, it seems to me, is required by this Statute whether the horse power of the new vehicle registered is the same or greater or less than that of the original vehicle registered. The words "also" or "in addition thereto" must be read into this Section 29 in the matter of increased horse power vehicles. The fee paid because of the increased horse power is not to cover the expense of new registration, but to bring the annual registration fee up to the amount specified in Section 23. That clause, commencing with the words, "but if the horse power of the vehicle is greater", can apply only to the matter of annual registration fee and must be deemed distinct from the fee to be paid for the issuance of the certificate and plates. By Section 23, it is provided that the State shall furnish one certificate of registration and one set of plates without charge, upon the payment of the annual registration fee. To my mind, the Legislature in Section 29 took into consideration the expense and labor involved in giving a new registration and intended a two-dollar charge for that service, but also endeavored to take care of the annual registration fee.

In its endeavor to make this provision as to new registration comply with the provisions for original registration in Section 23, the Legislature granted a rebate, in case of a smaller horse power in the new vehicle. It did not grant a full rebate, but gave one half. The reasons in the mind of the Legislature for not rebating the full difference between the fees chargeable do not appear and are unknown. It may appear that the State was not fair with the owner in making him pay the full difference for excess horse power and not rebating the full difference in case of decreased horse power; but such is the Statute.

I trust that my original off-hand opinion of this Statute did not work to your disadvantage. My careful and thoughtful consideration of the entire section of the entire Statute has convinced me that my final and authoritative interpretation must be contrary to that which I expressed to you in person. I am obliged to advise the Secretary of State that he should charge both the fee for issuance of certificate of registration and number plates and a further annual registration fee equal to the difference in scheduled fees, in case of application for registration of an exchanged vehicle which is of greater horse power than that of the vehicle originally receiving certificate of registration.

Guy H. Sturgis
Attorney General

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