been paid. Therefore, the conclusion must be that the title to said premises at the date of said continuation was in the name of the said Frank Holt, as trustee.

Said abstract discloses court proceedings wherein the said premises were conveyed to the said trustee in pursuance to an order of court for the purposes disclosed in said proceedings.

You have submitted a deed wherein the said Frank Holt, as trustee, conveys said premises to the state of Ohio, which, in the opinion of this department, is executed in proper form and is sufficient to convey his title.

You have also submitted a certificate from the auditor of state to the effect that there is a balance in the proper appropriation sufficient to cover the expenditure necessary in pursuance of the proposed contract to purchase said premises.

Respectfully,
JOHN G. PRICE,
Attorney-General.

2186.

AUTOMOBILES—NOT NECESSARY TO FILE WITH CLERK OF COURTS COPY OF BILL OF SALE OR SWORN STATEMENT BY PERSON WHO ORIGINALLY PURCHASED SAME FROM MANUFACTURER OR MANUFACTURER'S AGENT PRIOR TO PASSAGE OF ACT—AMENDED SENATE BILL NO. 3 (109 O. L. 330) CONSTRUED—FEES CHARGEABLE BY CLERK OF COURTS FOR INDEXING AND FILING DUPLICATE BILL OF SALE, ETC.—MEANING OF WORDS "AFTER PASSAGE OF THE ACT."

Under the provisions of Amended Senate Bill No. 3 it is not necessary to file with the clerk of courts a copy of a bill of sale or sworn statement for any motor vehicle owned by a person who originally purchased same from a manufacturer or manufacturer's agent prior to the passage of this act.

Under the provisions of Amended Senate Bill No. 3 the clerk of courts can make the following fee charges:

Indexing and filing duplicate bill of sale, 25 cents.

Indexing and filing original of such bill of sale, 25 cents.

For certified copy of sworn statement, 10 cents per hundred words.

The words "after passage of the act" as used in Amended Senate Bill No. 3 mean after the act becomes operative.

COLUMBUS, OHIO, June 22, 1921.

Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

GENTLEMEN:—Your communication of recent date received in which you ask my opinion as follows:

> "1. Does section 11 of amended Senate Bill No. 3, being 'an act to prevent traffic in stolen cars, require registration and bill of sale to be given in event of sale or change in ownership of motor vehicles,' apply to any motor vehicle now owned by a person who originally purchased same from a manufacturer or a manufacturer's agent?
>
> 2. What fees are taxable by the clerk of courts under sections 8 and 11 of this act?"

Section 11 of Amended Senate Bill No. 3 is as follows:

"No person residing in this state shall drive, use or operate, a motor vehicle or 'used motor vehicle' upon the public highways thereof, without having a 'bill of sale' for the motor vehicle as defined in this act, or without having the first filed, with the clerk of courts, of the county in which his residence is established, a sworn statement containing the name, residence of each and every bona fide owner or owners of the 'used motor vehicle', the name of the manufacturer or make, the manufacturer's number, the engine or motor number, as well as any other numbers thereon, the horse power of such 'used motor vehicle', and a general description of the body thereof, and obtain from said clerk, a certified copy of such statement."

"Motor vehicles" and "used motor vehicle" are described in the act as follows:

"That the term 'motor vehicle' as used in this act shall include only such newly manufactured vehicles as come within the definition of amended section 6290 of the General Code of Ohio sold or distributed by the manufacturer or dealer or other person after the passage of this act, and does not include 'used motor vehicles'.

The term 'used motor vehicle', for the purposes of this act, is defined to mean a motor vehicle which has been sold, bargained, exchanged, given away by, or title transferred from, the person who first took title to it from the manufacturer or importer, or the agent of the manufacturer or importer, and is to include all motor vehicles which have been in use in such manner previous to the passage of this act, as to have become what are now or may hereafter be commonly known among manufacturers or dealers as 'second-hand' motor vehicles."

In section 11 of said bill "motor vehicle" means motor vehicle as described in section 1 or any motor vehicle obtained after the passage of this act. In other words, in construing section 11, in view of the definition of "motor vehicle" as obtained in section 1, section 11 must be read as follows:

No person residing in this state shall drive, use or operate, any newly manufactured vehicle as comes within the definition of amended section 6290 of the General Code of Ohio, sold or distributed by the manufacturer or dealer or other person after the passage of this act without having a "bill of sale" for such motor vehicle.

That the "sworn statement" containing the name, residence, etc., applies only to "used motor vehicles" is plainly stated in the section and is believed to mean the present owner. It is understood from a personal conference that this bill was intended to cover motor vehicles and that all cars should have a record. But in the interpretation of laws there are certain well established rules which must be followed. Attention is directed to the following holdings:

In *The Christ Diehl Brewing Company et al.* vs. *Schultz, Treasurer,* 96 O. S., 27, the court says:

"If the language of a statute is ambiguous and its meaning doubt-

ful, a court in construing such statute will endeavor to ascertain and give effect to the intent of the lawmaking body which enacted it; but when the language employed is clear, unambiguous, and free from doubt, it is the duty of the court to determine the meaning of that which the legislature did enact, and not what it may have intended to enact."

In *Scheu* vs. *The State of Ohio,* 83 O. S., 146, the court says:

"In the consideration of a statute the question is, what did the legislature mean by what it said; and not, what did it mean to say."

In *State* vs. *Borham,* 72 O. S., 358, it is said:

"It is the duty of the courts to enforce plain statutes as they find them."

"The fact that a statute is poorly drawn and ineffective does not justify judicial legislation or an extension of its plain terms for a forced interpretation"

are the words of the court in *State* vs. *Surety Company,* 12 O. N. P. (N. S.) 185.

In *Hall* vs. *State,* 20 O. 7, the court says:

"Penal statutes must be strictly construed and can not be extended by implication to cases not strictly within their terms."

It may be further noted that the first paragraph of section 8 is as follows:

"Each corporation, partnership, association or person to whom title has in any manner been passed to a motor vehicle or a 'used motor vehicle' shall file one of the copies of the duplicate bill of sale with the clerk of courts of the county in which the sale, transfer, conveyance, gift or passage of title is consummated within three days immediately thereafter. It shall be the duty of the clerk of courts to refuse to accept for filing the duplicate bill of sale if such instrument is not executed and witnessed according to the provisions of this act."

The fact that the bill of sale must be filed within three days after passage of title is consummated would indicate that the intention of the act was not to apply to motor vehicles purchased from the manufacturer or manufacturer's agent prior to the passage of this act.

From a consideration of the above cited law it is apparent that by no means of construction can the bill herein considered apply to any motor vehicle owned by the person who originally purchased the same from a manufacturer or a manufacturer's agent prior to the passage of this act. Your first inquiry is therefore answered in the negative.

The sections under consideration in your second inquiry are section 11, as hereinbefore quoted, and section 8, which is as follows:

"Each corporation, partnership, association or person to whom title has in any manner been passed to a motor vehicle or a 'used

motor vehicle' shall file one of the copies of the duplicate bill of sale with the clerk of courts of the county in which the sale, transfer, conveyance, gift or passage of title is consummated within three days immediately thereafter. It shall be the duty of the clerk of courts to refuse to accept for filing the duplicate bill of sale if such instrument is not executed and witnessed according to the provisions of this act.

The clerk of courts shall, at the time of the filing of such duplicate bill of sale, or assignment thereof, affix his official seal and the date of the filing upon each instrument, and make an alphabetical index of the grantors and grantees thereof. Any instrument purporting to be a bill of sale, which does not bear the official seal of the clerk of courts of the county where the sale, gift, transfer, conveyance or passage or title took place shall be null and void. The clerk of courts of each county shall charge a fee of twenty-five cents for filing each duplicate bill of sale and the same fee shall be charged for the filing and indexing of each assignment of any such bill of sale."

The question being the same for each section, the two will be considered together.

It is provided in section 8, paragraph 2, that the clerk shall keep an index and file of each duplicate bill of sale and shall file and index each assignment of any such bill of sale and shall receive for the filing of each bill of sale and for each assignment and indexing thereof twenty-five cents. In section 11 no fee is mentioned.

Attention is invited to the following citations:

Clark vs. *Board of County Commissioners of Lucas County,* 58 O. S., 107—

"It is well settled that a public officer is not entitled to receive pay for services out of the public treasury, unless there is some statute authorizing the same. Services performed for the public, where no provision is made by statute for payment, are regarded as a gratuity, or as being compensated by the fees, privileges and emoluments accruing to such officer in the matters pertaining to his office."

Attorney General's Opinions for 1920, Vol. I. p. 704—

"Many decisions of the courts of this state may be cited showing that the right to tax costs must be by statute expressly providing such authority. In the absence of express statutory provision that right does not exist; no fees are allowed by implication."

Attention is further therein called to the following cases:

Lewis vs. State, 57 O. S., 189;
Strawn vs. Commissioners, 47 O. S. 408;
Anderson vs. Commissioners, 25 O. S. 13;
Debolt vs. Trustees, 7 O. S. 237;
State vs. Coats, 8 O. N. P. 662; 11 O. D. N. P. 670.

Therefore it is the opinion of this department that the charges under section 8, above quoted, are as follows: For indexing and filing a duplicate bill of sale twenty-five cents. For filing and indexing each assignment of such bill of sale twenty-five cents.

Under section 11 there can be no charge made for filing the "sworn statement" therein mentioned.

Under section 2901 General Code, which provides fees for the clerk of courts, one clause therein provides as follows:

> "* * * for making copies of pleadings, process, record, or files, including certificate and seal, ten cents per hundred words; * * *."

Section 8 of the bill under consideration provides in part as follows:

> "Each corporation, partnership, association or person to whom title has in any manner been passed to a motor vehicle or a 'used motor vehicle' shall file one of the copies of the duplicate bill of sale with the clerk of courts of the county in which the sale, transfer, conveyance, gift or passage of title is consummated within three days immediately thereafter."

This clearly indicates the clerk of courts must keep a file. Therefore it is considered that for a copy of the filed statement of facts as provided under section 11 the clerk may charge, as provided in General Code section 2901, ten cents per hundred words.

It is to be understood that the words "after passage of the act," as used in section 1 of said amended Senate Bill No. 3, mean after the date the act becomes effective.

Attention is called to the case of *Harding* vs. *The People,* 10 Colo. 387, in which the court says:

> "In the absence of any emergency clause, in view of this constitutional provision, the expression 'after the passage of the act', as used in the law, can have but one meaning, namely, after the act goes into effect."

See also:

State vs. Bentley, 80 Kansas, 227;
Mills vs. State Board, 135 Mich. 525;
State vs. Bemis, 45 Nebr. 724;
Rogers vs. Voss, 6 Iowa, 405;
Shark vs. Lanfer, 100 S. W. 1042.

Respectfully,
JOHN G. PRICE,
Attorney-General.