

parallel to the one submitted heretofore and discussed in my earlier opinion. I again call your attention to the language used therein to the effect that, under ordinary circumstances, any amendment of the articles of incorporation of a corporation seeking to change such corporation from one for profit to one not for profit, or from one not for profit to one for profit, would be such a substantial change as would not be permitted under Section 8623-14, General Code, unless the original articles provided otherwise. It should be noted that the original articles of this association made no provisions for substantially changing the purposes as therein set forth.

In view of the foregoing, I am of the opinion that your office has no authority to file the certificate of amendment submitted, as such amendment contemplates a substantial change within the meaning of Section 8623-14, General Code.

It, therefore, follows that the question of when the corporation was organized is not pertinent.

Respectfully,
GILBERT BETTMAN,
Attorney General.

354.

LICENSE PLATES FOR MOTOR VEHICLES—CORPORATION LEGALLY
TAKING OVER VEHICLES OWNED BY ANOTHER CORPORATION
MUST PROVIDE NEW PLATES.

SYLLABUS:

The Railway Express Agency Inc. which took over by legal transfer the motor vehicles formerly owned and used by the American Railway Express Company in the conduct of its business in this state, is required to make application for the registration of such motor vehicles before permitting the same to be driven upon the public roads, highways and streets of this state, and to pay therefor the proportion of the normal tax with respect to said several motor vehicles provided for by Section 6295, General Code.

COLUMBUS, OHIO, April 26, 1929.

HON. CHALMERS R. WILSON, *Commissioner of Motor Vehicles, Columbus, Ohio.*

DEAR SIR:—This is to acknowledge receipt of your recent communication, which is as follows:

“Pursuant to our conference a few days ago with a representative of your office, relative to the change that is being made, whereby the express company which has been known as the ‘American Railway Express Company’ is being changed to ‘Railway Express Agency, Inc.’, you will find herewith enclosed statement of the superintendent of such company at Columbus and Toledo, Ohio, such statement being what they proposed to submit in writing at the time of such conference.

In order that there may be no question as to the position of this department, it is desired that you submit an opinion as to whether this department should require new automobile license plates for the motor vehicles which are to be transferred from one name to the other, or whether the Department may permit the transfer of license plates already issued to the ‘American Railway Express Company’ to the ‘Railway Express Agency, Inc.’”

The American Railway Express Company was incorporated and organized as an agency to conduct the express business of the railway lines that were taken over by the government during the war. After the war the consolidation of the express business effected by the incorporation and organization of the American Railway Express Company was approved by the Interstate Commerce Commission under authority of the Transportation Act of 1920. Thereafter said American Railway Express Company continued to handle express business on practically all of the railway lines of the country until March 1, 1929, when the express transportation business theretofore conducted by it was taken over by the Railway Express Agency, Inc. Though not so stated in your communication or in the communications referred to in your letter to me, the Railway Express Agency, Inc., is a corporation and legal entity wholly separate and distinct from the American Railway Express Company.

In the consideration of the question presented in your communication, I do not deem it necessary to quote from or to discuss at length the several sections of the General Code relating to the registration or regulation of motor vehicles. Section 6291 of the General Code provides for an annual license tax upon the operation of motor vehicles on the public roads and highways of this state for the purpose of administering the law relative to the registration of motor vehicles, and for the purpose of providing funds for the maintenance and repair of public roads, highways and streets. Sections 6292 and 6292-1 of the General Code provide for the rates of such annual license tax or fee, of which sections of the General Code Section 6292-1 refers to and provides for the rates of the annual license tax or fee on commercial cars such as are involved in the question here presented. Under the provisions of Section 6294, General Code, such annual license tax or fee is to be paid at the time application is made for the registration of motor vehicles, as required by said section or by Section 6295, General Code.

Section 6295, above referred to, provides that every owner of a commercial car, before operating or driving such motor vehicle upon the public roads and highways of this state, or permitting the same to be driven, shall file an application for the registration thereof. This section further provides in part that:

“ * * *

On all applications required by this section the taxes payable shall be as follows:

1. If such application be made prior to April first, the normal tax.
2. If made on or after April first and prior to July first, three-fourths of the normal tax.
3. If made on or after July first and prior to October first, one-half of the normal tax, and
4. If made on or after October first, one-fourth of the normal tax.

* * * ”

Section 6294-1, General Code, reads as follows:

“Upon the transfer of ownership of a motor vehicle its registration shall expire, and it shall be the duty of the original owner to immediately notify the Secretary of State of the name and address of the new owner and return to the Secretary of State the registration certificate for cancellation. The original owner shall also remove number plates from a motor vehicle upon transfer of ownership of such vehicle. Should the original owner make application for the registration of another motor vehicle within thirty days after such cancellation, he may file a new application accompanied by a fee of one dollar, and pay the tax thereon, less the amount of the tax that would be

collected on account of the vehicle transferred, on the date of such application."

This department, in construing this provision in Opinion No. 2066, directed to you under date of May 7, 1928, held that the privilege of transferring number plates from the original car to another car is personal to the original owner and that the number plates on a car may not be assigned for transfer to the new owner of such car. The matter of assigning a distinctive number to a motor vehicle and issuing number plates therefor is one that follows the filing of an application for the registration of such motor vehicle and the payment of the tax imposed by the motor vehicle license law. It follows, therefore, that where the owner of a motor vehicle, who has filed an application for the registration of such motor vehicle and has paid the annual license tax or fee therefor, sells or transfers such motor vehicle to another person during such current year, the license issued to the original owner on such motor vehicle cannot be transferred to the vendee or transferee of such motor vehicle; but that such vendee or transferee, as a condition to his right to operate such motor vehicle upon the public roads or highways of this state, is required to file an application for the registration of such motor vehicle and pay therefor such part of the normal tax as is provided by the provisions of Section 6295, General Code, above quoted.

By way of specific answer to the question made in your communication, I am of the opinion that the Railway Express Agency, Inc., is required, by the provisions of the motor vehicle license law of this state, to make application for the registration of the motor vehicles taken over by it from the American Express Company and to pay the proper tax on such motor vehicles for the year 1929.

Respectfully,

GILBERT BETTMAN,
Attorney General.

355.

INSANE PERSON—ESCAPING FROM STATE HOSPITAL—STATE NOT
LIABLE FOR MEDICAL EXPENSES INCURRED BY SUCH PERSON
WHILE OUTSIDE HOSPITAL.

SYLLABUS:

When a person escapes from a state hospital for the insane and, during the time intervening between such escape and the time such patient is returned to the hospital, expenses have been incurred by reason of the care and attention furnished by a hospital due to the illness of the patient, there is no provision of law authorizing the payment of such hospital expenses from the state treasury.

COLUMBUS, OHIO, April 26, 1929.

HON. H. H. GRISWOLD, *Director of Public Welfare, Columbus, Ohio.*

DEAR SIR:—Acknowledgment is made of your recent communication, which reads:

"On December 12, 1923, a patient was committed to one of the Hospitals for the Insane. On November 21, 1928, he escaped and was not located until February 19, 1929, when he was found at the Portsmouth General Hospital. He escaped from this hospital and was captured by the county sheriff, lodged