

Opinion No. 537**Secretary of State—Fees—Search of
Records—Statutes, Construction of.**

HELD: Answering a letter of inquiry which requires merely a reference to a card, index or file to obtain a name or date, or similar information, is not a "search" within the meaning of Section 145, subdivision 15, R. C. M., 1921.

May 29, 1934.

You have asked my interpretation of Section 145, subdivision 15, R. C. M., 1921, reading: "The secretary of state, for services performed in his office, must charge and collect the following fees: * * * 15. For searching the records and archives of the state, one dollar."

For instance, would the answering of a simple inquiry, such as, who is the process agent for a foreign corporation, who are the officers of a corporation, what is the correct name of a certain corporation, is a certain company a corporation of Montana,

what is the principal place of business of a certain corporation, what is the date of issuance of a certain notarial commission, where all that is required is to turn to a certain card or index in order to obtain the information to answer the inquiry, constitute a search?

The question arises as to what construction shall be placed on the word "search" in order to express the intention of the legislature. It is my opinion that the effort required to answer the above questions used as illustrations, or similar questions, does not constitute a "search" in either a legal or a colloquial sense. Standard Dictionary defines "search" as "to explore thoroughly as if to find something concealed or lost"; Century Dictionary defines it "to go through carefully in seeking to find something"; Webster's Dictionary gives a similar definition, "to look over or through for the purpose of finding something." Examples are cited: "Search the Scriptures," "to search the house," "to search a title," "search for hidden treasure".

The mere turning to an index, card or file to obtain information does not constitute a "search" in the true and ordinarily accepted sense of the term. In my opinion the legislature did not intend to use the word in such a sense. If that had been their intention they would clearly have stated that the secretary of state must charge \$1.00 for answering all inquiries, for very few queries, if any, directed to your office can be answered without inspection or reference to some card or record. Rather, it was the intention of the legislature that the taxpayers should be entitled to such simple service without paying an exorbitant fee. Certainly in the absence of a clear intention on the part of the legislature to charge such a fee, no such fee should be charged. (46 C. J. p.1017, Section 244.)

I am advised that all secretaries of state have made it a practice of furnishing such information without charge and of giving an interpretation to the statute in accordance with the views herein expressed. The contemporaneous construction placed upon a statute by an officer or department charged with the duty of executing it and especially if observed and acted upon over a long period of time, is entitled to more or less weight and should not be disregarded or over-

turned except for the most cogent reasons and unless clearly erroneous. (State v. Brannon, et al., 86 Mont. 200, 283 Pac. 202, 67 A. L. R. 1020; State v. Knight, 76 Mont. 71, 245 Pac. 267; Logan v. Davis, 233 U. S. 613, 58 L. Ed. 1121, 34 Sup. Ct. Rep. 685, 690; Swendig v. Washington Water Power Co., 265 U. S. 322, 68 L. Ed. 1036, 44 Sup. Ct. Rep. 496; Lewis' Sutherland on Statutory Construction, sec. 472; 59 C. J. 1025, sec. 609.)