

File No. 13715 Continued.

In the Vansant case this same section of our charter was under discussion and the powers of the City thereunder were construed. Under it an ordinance was passed imposing upon omnibuses an original annual license fee of \$75.00 and \$50.00 for each renewal thereof.

The ordinance was held invalid. The Court, Stone, J., say:

"~~****~~There is certainly no express grant of the powers of taxation for revenue in the Act, nor can any such power be drawn from it by necessary implication.

The word tax is not once mentioned in the Act, and if the primary object of the law was to authorize the city to levy and collect a tax for the purpose of raising revenue, it is singular indeed, when apt and appropriate words to express such purpose abound, that none such were used.~~*****~~ It is true that the power to license and regulate, carries with it, by necessary implication, the power to levy some tax. But in such cases the tax is a mere incident to the main purpose of the law. It is only intended as a means provided for carrying the law into effect."

I have cited this case to show the different views held by our own courts and those of Illinois, and for the further purpose of showing that even if it could be held that the power to impose the license existed, it would have to be a very nominal one.

I am, therefore, of opinion that the Mayor and City Council of Baltimore is without authority, under existing law, either express or implied, to impose a license upon automobile owners in the City of Baltimore.

In conclusion I desire to direct your attention to an opinion of Mr. Sylvan Hayes Lauchheimer, formerly of this department, to Mr. W. Cabell Bruce, dated September 6th, 1905, (File No. 3470) in which the same subject is discussed and the same conclusion arrived at.

Respectfully yours,

(Signed) Edward J. Colgan, Jr.

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