

**Motor Vehicles—Registration Fees—Constitutional Law—
County Commissioners—Streets—Public Highways.**

Chapter 88, laws of 1927, amending section 1760 R.C.M. 1921, as amended by chapter 107 of eighteenth legislative assembly, held to be constitutional against objection that title of bill is insufficient to clearly express subject of the amendment providing that county commissioners may use moneys derived from registration fees for motor vehicles for the construction, repair and maintenance of all public highways within the county, including city streets, forming component parts

of arterial highways within the corporate limits of cities in the county.

Harlow Pease, Esq.,
Deputy County Attorney,
Butte, Montana.

May 9, 1929.

My dear Mr. Pease:

You have requested my opinion as to the validity of Chapter 88, Laws of 1927, the act being entitled as follows:

"An Act to Amend Section 1760 of the Revised Codes of Montana, 1921, as Amended by Chapter 107 of the Eighteenth Legislative Assembly, Relating to the Registration Fees for Motor Vehicles and the Disposition Thereof, and Repealing All Acts and Parts of Acts in Conflict Herewith."

Prior to the enactment of said Chapter 88, said Section 1760 as amended by Chapter 107 of the Laws of the Eighteenth Legislative Assembly directed that the moneys arising from registration fees for motor vehicles transmitted to the counties should be deposited to the credit of the general road fund of the county; said Chapter 88 of the Laws of 1927 changed this provision by directing that the money so transmitted to the counties shall be "used by said county for the construction, repair and maintenance of all public highways within said county, including city streets forming component parts of arterial highways within the corporate limits of cities within the boundaries of said county."

You inquire if the title of said Chapter 88 is sufficient to express the above mentioned amendment as required by Section 23 of Article V of the Constitution of the State of Montana; also if the chapter is subject to the objection that it contains more than one subject contrary to the provisions of said constitutional provision. Said section and article of the constitution referred to reads as follows:

"No bill, except general appropriation bills, and bills for the codification and general revision of the laws, shall be passed containing more than one subject which shall be clearly expressed in its title; but if any subject shall be embraced in any act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be so expressed."

You have referred to the case of *State vs. McKinney*, 29 Mont. 375, wherein our Supreme Court discussed the requirements of this constitutional provision and wherein five certain rules were enumerated by which legislation should be tested for the purpose of determining whether or not it complied with said constitutional provision. The rules so promulgated are as follows:

"First. The purposes of this constitutional provision are to prevent the legislature from the enactment of laws surreptitiously; to prevent 'logrolling' legislation; to give to the people general notice of the character of proposed legislation, so they may not be misled; to give all interested an opportunity to

appear before committees of the legislature and be heard upon the advisability of the proposed legislation; to advise members of the legislature of the character of the proposed legislation, and to give each an opportunity to intelligently watch the course of the proposed bill; to guard against fraud in legislation, and against false and deceptive titles. These purposes have been so plainly announced by this court in numerous opinions that a statement of the rule and a citation of cases would seem sufficient.

“Second. While all the provisions of the Constitution are ‘mandatory and prohibitory’ (Art. III, Sec. 29), yet the courts, bearing in mind that the legislature is a coordinate branch of the government, and that its action, if fair, should be sustained, have given this section of the Constitution a liberal construction, so as to not interfere with or impede proper legislative functions.

“Third. The legislature is the judge, to a great extent, at least, of the title which it will prefix to a bill; and the court has no right to hold a title void because in its opinion, a better one might have been used.

“Fourth. The title is generally sufficient if the body of the act treats only, directly or indirectly, of the subjects mentioned in the title, and of other subjects germane thereto, or of matters in furtherance of or necessary to accomplish the general objects of the bill, as mentioned in the title. Details need not be mentioned. The title need not contain a complete list of all matters covered by the act.

“Fifth. If the court, after an application of all these principles, is still in doubt as to the constitutionality of the bill, it should sustain the act.”

In the case of *Evers vs. Hudson*, 36 Mont. 135, the Supreme Court of Montana added four more rules to those set forth in *State vs. McKinney*, as follows:

“(6) This provision of the Constitution relates to matters of substance, and not merely to matters of form.

“(7) If a title fairly indicates the general subject of the act, is comprehensive enough in its scope reasonably to cover all the provisions thereof, and is not calculated to mislead either the legislature or the public, this is a sufficient compliance with the constitutional requirements.

“(8) Generality or comprehensiveness in the title is no objection, provided the title is not misleading or deceptive and fairly directs the mind to the subject of the law in a way calculated to attract the attention truly to the matter which is proposed to be legislated upon.

“(9) Meaningless words and phrases may be discarded by construction, and if, after such elimination, the title clearly expresses the subject of the act, it is sufficient.”

Testing the legislation by these rules it appears that the act in question contains but one general subject, to-wit, the amendment of Section 1760 of the Revised Codes of Montana of 1921, as amended by Chapter 107 of the Laws of the Eighteenth Legislative Assembly, the provisions of which relate to the registration fees for motor vehicles and the disposition thereof. Unity of subject required by the said constitutional provision is served when the provisions of the act are such as are germane to the general subject expressed (*Hotchkiss vs. Marion*, 12 Mont. 218; and cases cited under the constitutional provision in question). Certainly the disposition of fees is germane to the general subject providing for the collection of them.

In my opinion the title of said Chapter 88 is sufficient to give notice of the legislation had therein with reference to the disposition of the registration fees. It fairly apprized the legislators and the people generally that the body of the act contained legislation concerning a previous act of the legislature relating to the disposition of said registration fees, and that it was amendatory of the provisions of said prior legislation. The exact details, qualifications and limitations need not be expressed in the title. In my opinion, the title gave ample notice that the body of the act contained legislation upon the subject of the disposition of the fees and that the amendment made by said Chapter 88 is not obnoxious to the rule that the subjects of the legislation must be clearly expressed in the title.

Our Supreme Court in *Hotchkiss vs. Marion*, supra, held valid as against this objection that an act, the title of which stated that it was an act to amend certain sections of the compiled statutes of Montana related to but one general subject and that the subject was expressed in the title. This title was more limited than that of Chapter 88, Laws of 1927, and the legislation under it was more general than that contained in said Chapter 88.

It is therefore my opinion, that said Chapter 88, Laws of 1927, meets the requirements of Section 23, Article V, of the Constitution of the State of Montana.

Very truly yours,

L. A. FOOT,
Attorney General.

By L. V. Ketter, First Assistant.