

would result not only in hardship and unreasonableness but also confusion and uncertainty.

While it is true that Section 90, Revised Codes of Montana, 1935, provides:

"Every statute, unless a definite time is prescribed therein, takes effect on the first day of July of the year of its passage and approval",

the legislature by the passage of an act cannot be presumed to have done an illegal thing, for under Article I, Section 10 of the Constitution of the United States, no State can " pass any law impairing the obligation of contracts. . . . "

Section 11 of Article III of our State Constitution provides:

"No ex post facto law impairing the obligation of contracts or making any irrevocable grant of special privileges, franchises, or immunities, shall be passed by the legislative assembly."

Section 11 of Chapter 199, Laws of 1943, provides that every driver of a motor vehicle shall annually procure a driver's license at a fee of 75 cents and further provides that the license shall expire on December 31 of the year issued. This is a solemn contract obligation between the purchasers of such a license and the State of Montana, that the license will not be changed during the period of its validity. Further than this, Article 5 of Chapter 267, Laws of 1947, creates a new and greater penalty for the violation of the act than that contained in Chapter 199 of the Laws of 1943. Therefore, if it is to be held that Chapter 267 goes into effect during the year in which a licensee is holding a valid driver's license, such an enactment would be an ex post facto law which is again in violation of Article I, Section 10 of the Constitution of the United States, and Section 11 of Article III of our State Constitution.

In Section 19 of Chapter 267, relating to the issuance of licenses to operators and chauffeurs, the legislative assembly did not make an exception to the regular procedure

Opinion No. 39

**Licenses, Operator's or Chauffeur's—
Operator's or Chauffeur's License—
Driver's License.**

Held: 1. Those drivers who purchase their licenses before July 1, 1947, cannot be required to purchase the new license provided for in Chapter 267 under the restrictions contained in Article I, Section 10 of the Constitution of the United States and Section 11 of Article III of our State Constitution.
2. The legislature intended Chapter 267, Laws of the 1947 Legislative Assembly, to become effective on January 1, 1948.

June 5, 1947

General Charles L. Sheridan,
Supervisor
Montana Highway Patrol
Helena, Montana

My dear General:

You have requested an opinion from this office regarding when Chapter 267, Laws of 1947, goes into effect. From the facts which you submit, it becomes apparent that if your department should attempt to put this law into operation on July 1, 1947, it

therein provided—which it undoubtedly would have done if it had intended the first issuance of license to be irregular—but provided licenses shall be purchased annually on or before January 1:

“ * * * * The board shall, upon the payment of one dollar and fifty cents (\$1.50), issue to every applicant qualifying therefor, an operator's or chauffeur's license as applied for, which license shall be purchased annually on or before January 1 and shall expire on December 31 of the same year and shall bear thereon a distinguishing number issued to the licensee, the full name, date of birth, residence address and a brief description of the licensee and either a facsimile of the signature of the licensee or a space upon which he shall write his signature in pen and ink, immediately upon receipt of the license. * * * *” (Emphasis mine).

Therefore, it is my opinion that those drivers who purchase their licenses before July 1, 1947, cannot be required to purchase the new license provided for in Chapter 267 under the restrictions contained in Article I, Section 10 of the Constitution of the United States and Section 11 of Article III of our State Constitution.

This brings us then to the question of whether Chapter 267 in its entirety becomes effective July 1, 1947 or January 1, 1948. House Bill No. 325 of the 29th Legislative Assembly of 1945 is the general appropriation act appropriating money for the operation, maintenance, etc., of all State Departments, Boards, Bureaus and Institutions, for the period July 1, 1945 to June 30, 1947. This act appropriates for the fiscal year 1945 and 1946 the sum of \$300,000.00 for the Highway Patrol and the sum of \$255,000.00 for the year 1946 and 1947. In the request for the appropriation for \$255,000.00 for the fiscal year 1946-1947, the printing, distribution and administration of the present 75 cent drivers' license was included. Hence, if the 1947 legislature intended Chapter 267 to take effect on July 1, 1947, it would follow that the legislature intended to forget that money had been expended under the \$255,000.00 appro-

priation and thus a great deal of the State's money wasted. Such a presumption would be absurd because the elected representatives of the people of a State are charged with the duty of saving money for the taxpayers wherever possible. It therefore appears that there is an inconsistency between the appropriation measure (House Bill 325, Laws of 1945), and the provisions of Chapter 267, here under consideration.

It is the standard rule of construction adopted by the Courts of the United States almost without exception that consistency in statutes is of prime importance and in the absence of a showing to the contrary, all laws are presumed to be consistent with each other. (Palmer v. Dis. of Col. 26 App. DC 31, 1, LRA (NS) 878).

“Where it is possible to do so it is the duty of the courts in the construction of statutes to harmonize and reconcile and to adopt that construction of a statutory provision which harmonizes and reconciles it with other statutory provisions.”

(50 A. J. Sec. 363, p. 367 and cases cited).

In other words, if we would construe Chapter 267 as taking effect July 1, 1947, there would follow an inconsistency between the General Appropriation Act of 1945 referred to above and the terms and provisions of Chapter 267. In this connection, the courts are equally in full accord that inconsistencies should be avoided when a reasonable interpretation can be adopted which will not do violence to the plain words of the act and will carry out the intention of the legislature. (U.S. v. Raynor 302, U.S. 540, 82 L. Ed. 413). Such a construction would result in an administrative absurdity.

In the present situation by holding that Chapter 267 becomes effective January 1, 1948, we would not be doing violence in any way to the plain words of the act and we would be carrying out the intention of the legislature wherein it appropriates money for the present 75 cent driver's license for the calendar year 1947, and the administration of the act may be orderly and effective.

Therefore, it is my opinion the legislature intended Chapter 267, Laws of the 1947 Legislative Assembly, to become effective on January 1, 1948.

Sincerely yours,
R. V. BOTTOMLY,
Attorney General