

Opinion No. 18

MOTOR VEHICLES; Registration; Fees; Proportion used for City Streets—SECTION 53-122, REVISED CODES OF MONTANA, 1947, as amended.

HELD: The language “at the end of each thirty (30) day period beginning March 1, 1961” contained in Section 53-122 (c) Revised Codes of Montana, 1947, as amended by Chapter 178, Laws of 1963, refers to a period of time including and following that date.

September 5, 1963

John R. Carr, Esq.
Custer County Attorney
Miles City, Montana

Dear Mr. Carr:

You have requested an opinion of this office growing out of the construction to be given a sentence in Section 53-122, Revised Codes of Montana, 1947, as amended by Chapter 178, Laws of 1963. The sentence is contained in the second paragraph of subsection (c) of Section 53-122, *supra*, and reads in pertinent part as follows:

“The license fees held in the city road fund, as hereinafter provided shall be **at the end of each thirty (30) day period beginning March 1, 1964**, be paid by the county treasurer * * *”
(Emphasis supplied)

You ask whether the subject thirty-day period is that including and preceding March 1, 1964, or including and following that date.

Chapter 178, *supra*, provided for allocation to cities meeting certain requirements contained therein of a portion of motor vehicle registration fees based on a formula which it also created. This legislation, as a practical matter, did not change any existing legislation affecting the particular cities gaining the advantage, so

no insight into legislative intent can be had by comparing the new section to the old insofar as the instant question is concerned.

The new proration formula to be determined by the county commissioners must be accomplished prior to March 1, 1964, and the distribution of moneys allocated thereunder may be accomplished on or after that date, so that it cannot be said that it is impossible for the treasurer to make distribution on that date.

In my opinion, the aids to statutory construction are reduced to those of literal and grammatical interpretation as there appears no contrary intent from that which would follow therefrom.

“The rule of grammatical construction is merely an aid in interpretation, and if the text of a statute indicates a legislative intention contrary to that which would follow from the application of the rules of grammar, the rule of grammatical construction must give way; but in the absence of a clear intention, as disclosed by the text, the purpose and intent of the statute must be elicited from the terms and expressions employed, with the aid of the ordinary rules of grammar.” *State v. Centennial Brewing Co.*, 55 Mont. 500, 179 Pac. 296.

The questioned phrase, **“at the end of each thirty (30) day period beginning March 1, 1964,”** contains the modifier “beginning March 1, 1964.” What is modified by this particular language? If it modifies “end”, the subject thirty day period is that including and preceding that date. If it modifies “period”, the subject thirty day period is that including and following that date.

Our Supreme Court has, upon several occasions, applied the rule that relative and qualifying words and phrases are to be applied to the word or phrase immediately preceding, and are not to be construed as extending to or including others more remote. *Cobban Realty Co. v. C. M. and St. P. Ry. Co.*, 58 Mont. 188, 190 Pac. 988; *State v. Centennial Brewing Co.*, 55 Mont. 500, 179 Pac. 296; *State ex rel Hinz v. Moody*, 71 Mont., 473, 230 Pac. 575.

In *State v. District Court et al*, 103 Mont. 487, 501, 63 Pac. 2d 141, the court said:

“* * * The rule of construction has long been adopted by this court that a relative clause must be construed to relate to the nearest **antecedent** that will make sense. * * *” (Emphasis supplied)

Under this rule, “beginning March 1, 1964”, modified “period”. There is nothing ambiguous about what time is meant by a thirty day period which begins on a given date.

I therefore hold that the thirty day period referred to is that period beginning March 1, 1964, includes that date, and follows that date.

Very truly yours,

FORREST H. ANDERSON
Attorney General