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a court of another state as basis for a citizen's arrest of a fugitive would infer that a felony charge filed in a court of this state is sufficient probable cause of suspicion to make a legal citizen's arrest at common law.

In conclusion, it is my opinion that after judgment on a forfeiture, the surety has the same common law right as any private citizen to make an arrest of one who he has probable cause to suspect has committed a felony; however, he is also subject to the same liability for illegal arrest. Nevertheless, it would seem that one who had been a surety on a recognizance bond would have reasonable cause to believe that a felony had been, in fact, committed, and that he would be in less danger of liability for false imprisonment than other less-informed citizens.

Since it is my opinion, in answer to your express question, that the right of a surety to be discharged from liability on his bond by surrender of his principal terminated with judgment upon the forfeiture, the chances of remission of the forfeiture upon surrender after judgment are within the discretion of the Governor under the Constitution of Indiana, Art. 5, Sec. 17, when presented to him pursuant to the procedure provided by statute.

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### OFFICIAL OPINION NO. 34

July 26, 1961

Mr. Robert J. DuComb, Commissioner  
Indiana Securities Commission  
Office of the Secretary of State  
201 State House  
Indianapolis, Indiana

Dear Mr. DuComb:

This is in response to your letter of June 13, 1961, in which you requested an Official Opinion clarifying the effect of Ch. 79 and Ch. 333 of the Acts of 1961. The questions as stated in your letter are as follows:

“Query 1: Does Chapter 79 of the Act of the Indiana General Assembly requiring the licensing of secu-

rities dealers for a two year period supersede Section 302(c) of Chapter 333 or does Chapter 333 stand alone and repeal Chapter 79 so far as the securities division of the office of the Secretary of State is concerned?

“Query 2: If the answer to the first query is that Chapter 79 supersedes Section 302(c) of Chapter 333 as to securities dealer’s licenses being issued for a two year period rather than a one year period does Chapter 79 by implication afford the securities commissioner the right to license agents for a similar two year period or must they be re-licensed annually as otherwise provided in Chapter 333.”

The first one of the Acts mentioned above is the Acts of 1961, Ch. 79, approved March 6, 1961, as found in Burns’ (1961 Supp.), Sections 42-106 to 42-110, which read as follows:

42-106. “It is the declared intent of the general assembly by the enactment of this law to require those agencies which are authorized to issue the licenses, hereinafter designated in Section 2 [§ 42-107] hereof, in the interests of efficiency and economy in the administration of government, to issue such designated permits, licenses, certificates of registration and other evidences of compliance with statute or regulation, and renewals thereof, for periods of two [2] years duration rather than upon an annual basis, and at the time of issuance or reissuance, or at the time designated by law for the collection of fees therefor, to require the payment of such fees for a period of two [2] years rather than for one [1] year.”

42-107. “All permits, licenses, certificates of registration or evidences of authority granted by any state agency, but only as specifically enumerated in this section, shall be issued for a period of two [2] years rather than annually, such being for the right to engage in the following professions, occupations or businesses:

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“Certified public accountants, architects, dry cleaners, athletic licenses for contestants and judges, professional engineers, land surveyors, insurance solicitors, insurance brokers, insurance agents, librarians, real estate brokers, real estate agents, security dealers licenses issued by the securities commissioner, watch repairing, barbers, barber shops, beauty shops, beauticians, manicurists, electrologists, dental hygienists, dentists, embalmers and funeral directors, veterinarians, physicians, chiropractors, physical therapists, nurses, optometrists, pharmacists and assistants, drugstores or pharmacies, motels and mobile home park licenses.”

42-108. “Commencing with the effective date of this act [October 1, 1961], such licensing agencies as are authorized to issue any of the foregoing shall issue and reissue such licenses and collect the fees for the same on the basis of two [2] years and the dates by month and day which govern the issuance or reissuance of licenses for one [1] year shall govern the issuance or reissuance of licenses for two [2] years: Provided, That entire fees for a two [2] year period shall be payable before issuance thereof on the day and month designated for payment of fees for one [1] year licenses.”

42-109. “Rebates and proration of fees for fractions of a biennium shall be allowed only with respect to the second year of such license if claim be made therefor before the expiration of the first year for which the license was issued.”

42-110. “Notice shall be given and forms prepared by such licensing agencies as necessary to execute the provisions of this act [ §§ 42-106—42-110 ] and in order to expedite and effectuate the conversion from one [1] year licensing periods to those of two [2] years, such licensing agencies may adopt and promulgate such rules and regulations they may deem necessary in the manner prescribed by law.”

The second one of the acts mentioned above is the Acts of 1961, Ch. 333, approved March 11, 1961, the pertinent section being Section 302, as found in Burns' (1961 Supp.), Section 25-863(c) and (d), which subsections read as follows:

“(c) If no denial order is in effect and no proceeding is pending under section 304 [§ 25-865], registration becomes effective at noon of the thirtieth day after an application is filed. The commissioner may by rule or order specify an earlier effective date and he may by order defer the effective date until noon of the thirtieth day after the filing of any amendment. Registration of a broker-dealer or agent shall be effective until March 1 of the following year and may be renewed as hereinafter provided. The registration of an agent is not effective during any period when he is not associated with an issuer or a registered broker-dealer specified in his application or a notice filed with the commissioner. When an agent begins or terminates a connection with an issuer or registered broker-dealer, the agent and the issuer or broker-dealer shall promptly notify the commissioner.

“(d) Registration of a broker-dealer or agent may be renewed by filing with the commissioner prior to the expiration thereof an application containing such information as the commissioner may require to indicate any material change in the information contained in the original application or any renewal application for registration as a broker-dealer or agent filed with the commissioner by the applicant, payment of the prescribed fee and, in the case of a broker-dealer, a financial statement showing the financial condition of such broker-dealer as of a date within ninety [90] days  
\* \* \*”

Acts of 1961, Ch. 333, Sec. 509(f) declared an emergency and provided that the act shall be in full force and effect on and after July 1, 1961.

Burns' 42-106, *supra*, states that it was the declared intent of the Legislature by the enactment of the Acts of 1961, Ch. 79, *supra*, to require designated state agencies to issue licenses

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for periods of two years rather than upon an annual basis. In Burns' 42-107, *supra*, in the list of designated professions, occupations or businesses coming within the purview of this statute, we find included "security dealers licenses issued by the securities commissioner."

The Acts of 1961, Ch. 333, *supra*, is an act particularly concerning securities and includes under Section 302 registration procedure for the licensing of "broker-dealer or agents." Furthermore, Part III of Chapter 333 of the Acts of 1961, of which Section 302(c) and (d), *supra*, are therein included, sets out in considerable detail the registration requirements, registration procedure, record requirements and the basis of denial, suspension or revocation of registration for broker-dealers.

In answering your question, it is important to note that both of the statutes, namely, Acts of 1961, Ch. 79 and Ch. 333, *supra*, were passed at the same session of the Legislature and both pertain to the same subject matter insofar as the licensing of security dealers is concerned.

It is a well-settled rule of statutory construction that where two or more statutes relating to the same subject matter are enacted at the same session of the Legislature they are *in pari materia* and should be so construed as to give effect to each, if possible.

Long, Mayor, *et al.* v. Kinney *et al.* (1936), 210 Ind. 192, 198, 1 N. E. (2d) 929;

State *ex rel.* Spencer, Prosecuting Attorney v. Baker, Judge (1937), 212 Ind. 44, 50, 7 N. E. (2d) 984;

Olszewski v. Stodola (1948), 226 Ind. 639, 643, 82 N. E. (2d) 256.

In State *ex rel.* Davenport v. International Harvester Co. (1940), 216 Ind. 463, 467, 468, 25 N. E. (2d) 242, it is stated:

*"Repeals by implication are disfavored. Where two acts are seemingly repugnant, they should be construed, if possible, so that the later will not operate as a repeal or modification of the former. If, by the application of every reasonable rule of construction, substantial har-*

*mony is found possible, then there is no irreconcilable conflict. The presumption is especially strong against an implied repeal of an act by another act of a later date at the same session of the Legislature. There is no inference that one act was intended to destroy another if they are on the same subject-matter and enacted at the same meeting of the Legislature, but, on the contrary, they should be construed, if possible, to give full effect to each. The purpose of all rules of statutory construction is to ascertain the legislative intent \* \* \*."* (Our emphasis)

In Indiana Law Encyclopedia, Vol. 26, Statutes § 131 it is stated at pages 344, 345:

"The rules of construction and interpretation of acts *in pari materia* apply with singular force to acts passed at the same session of the Legislature. Laws passed at the same session of the Legislature relating to the same subject matter are *in pari materia* and should be construed together, especially when they are approved on the same day.

"Statutes passed on the same day or at the same session, when related to the same subject, are presumed to be actuated by the same policy, and they are to be construed together as if parts of the same or general law. The court has the duty to so construe such statutes as to harmonize them, and to give force and effect to the provisions of each, if possible."

In Sutherland, Statutory Construction, 3rd Ed., Vol. 1, Sec. 2020, p. 484, the following is stated:

"In the absence of an irreconcilable conflict between two acts of the same session, each will be construed to operate within the limits of its own terms in a manner not to conflict with the other act \* \* \*."

In my opinion the Acts of 1961, Ch. 333, Sec. 302, *supra*, does not specifically provide for a *one year* registration. This section provides that "*registration of a broker-dealer shall be effective until March 1 of the following year and may be*

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*renewed as hereinafter provided.*" (Our emphasis). Thus, for example, an *initial* registration which becomes effective July 24, 1961, will continue to be effective until March 1, 1962. An *initial* registration effective July 24, 1962, will continue to be effective until March 1, 1963. Thus, "March 1 of the following year" will advance one year at the end of each calendar year. All *initial* registrations effective in any calendar year remain effective until March 1 of the following year; and, therefore, any registrations effective during the balance of this calendar year will remain in effect until March 1, 1962; and any registrations effective in 1962 prior to March 1st will remain in effect until March 1, 1963.

It is stated in the Acts of 1961, Ch. 333, Sec. 302(c), *supra*, that registrations "may be renewed as hereinafter provided." Provision for renewal is made in subsections (d) and (e) of Sec. 302, *supra*, but nowhere in this section is there any limitation as to renewals of registrations being made for a one year period.

Therefore, it is my opinion that both of said acts, namely Acts of 1961, Ch. 79, and Ch. 333, *supra*, are in harmony. It appears that the intent of the Legislature was that Ch. 333, *supra*, should govern all *initial* registrations, so that all registrations will expire on March 1st (but not all in the same year), and that Ch. 79 should govern renewals of registrations of security dealers (broker-dealers), without conflict with any provisions in that regard in Ch. 333.

In summary, it is my opinion that the answers to your questions are as follows:

Query 1. Neither Ch. 79, nor Ch. 333, is repealed, and the acts are in harmony.

Query 2. (a) All *initial* registrations of security dealers, broker-dealers or agents, which become effective during any calendar year, remain effective until March 1 of the following year.

(b) All *renewals* of licenses (registrations) for such security dealers (broker-dealers) will be effective for a period of two years.