

Motor Vehicles, Speed of. Statutes, Construction of.

When two acts were passed by the legislature, one relating generally to highways and containing among other things a provision regulating the speed of motor vehicles, and the other and later one deals specifically with the subject of motor vehicles and fixes different penalties for certain acts, the latter must be held to govern, especially as the latter act shows that it was intended to be the whole law upon the subject. In view of this it is held that Chapter 73, Laws Thirteenth Session, relating entirely to motor vehicles, repeals that portion of Chapter 72, Laws Thirteenth Session, relating to the same subject.

Hon. Justin M. Smith,
County Attorney,
Bozeman, Montana.

Dear Sir:

I beg to acknowledge receipt of your letter of the 10th instant, asking for my opinion upon the proper construction to be given to the law enacted at the Thirteenth Legislative Assembly regarding the speed of motor vehicles, specifically—whether the provisions of Chap. 72 of the Session Laws of the Thirteenth Legislative Assembly, and the portion thereof dealing with the speed of motor vehicles, should obtain, or whether the provisions of Chap. 73 of the same laws should govern.

In construing these two laws we are at once confronted with a rule of statutory construction to the effect that two laws upon the same subject matter passed at the same session of the legislature are to be construed together as one law unless they are absolutely repugnant or inconsistent. This rule of construction is so well supported by authority that it has become axiomatic. In construing two acts of the legislature, however, we must be guided as well by the intent of the legislature as displayed by the internal evidence of the acts themselves, as by some rule of construction.

In the case at hand, the first law, dealing with the subject of the speed of motor vehicles was made a part of a general highway law and incidental to it, but for the purpose of construction this part of the law dealing with this subject should be regarded as a separate section of the law. The later enactment, Chap. 73 of the Session Laws of the Thirteenth Legislative Assembly, has all the appearance and meaning of being a specific and special enactment upon the subject covered by it, to-wit:

“An act providing for the registration, identification and regulation of motor vehicles, operated and driven upon the public roads and highways of this state.”

“It will be noticed that Chap. 72 was approved March 11th, 1913, and Chap. 73, was approved March 12, 1913. It can hardly be said that the legislature did not have in mind the general highway law

when they passed Chap. 73, and it must be further noticed that the penalties provided for by Chap. 73 differ materially from those provided for in Chap. 72 both as to amounts and disposition thereof. Chap. 73, not only repeals all acts and parts of act in conflict therewith, but it clearly shows an intent on the part of the legislature to make it the general law upon the subject throughout the state, in as much as it takes from cities and towns all power to legislate upon the subject.

“Where a later act covers the whole subject of earlier acts and embraces new provisions, and plainly shows that it was intended, not only as a substitute for the earlier acts, but to cover the whole subject then considered by the legislature, and to prescribe the only rules in respect thereto, it operates as a repeal of all former statutes relating to such subject matter, even if the former acts are not in all respects repugnant to the new act.”

36 Cyc. 1078.

In the case of *Crossman v. Kenninston*, 32 Pac. 448, a California case, it was held that where the remedy and penalty provided for in a later act were different than those named in a former act, the later act repealed the former.

In the case of *Frazier v. Alexander*, 16 Pac. 760, the same court above quoted held:

“We think it may be stated as a general rule that acts of the legislature prohibiting the same offenses and injuries as former acts, but imposing different penalties or giving different remedies, repeal, so far, such former acts.”

Upon the ground that Chap. 73 of the Session Laws of the Thirteenth Legislative Assembly is a complete and special and separate act of the legislature upon the topic of motor vehicles, and that it shows by its terms that it was intended to be the general law of the state on the subject, which intent is shown by the taking away from cities and towns all power to regulate such motors, and for the reason that the said act imposes a different penalty for the same offense, you are advised that your interpretation of the provisions of the two laws in regard to the speed of motor vehicles is correct, and that the provisions of Chap. 73 of the Session Laws of the Thirteenth Legislative Assembly must be held to repeal the provisions of Chap. 72 of the same laws relating to the speed of motor vehicles.

Yours very truly,

D. M. KELLY,
Attorney General.