

Warden—Motor Vehicles—Automobiles—Registration.

Under chapter 177, laws of 1925, it is the duty of the warden of the state prison to administer the provisions of chapter 113, laws of 1925.

Moneys in the auto theft fund created by section 17 of chapter 113, laws of 1925, may be used to defray the expense of purchasing office supplies and equipment necessary for the use of the warden of the state prison in administering the provisions of chapter 177, laws of 1925.

A. B. Middleton, Esq.,
Warden of State Penitentiary,
Deer Lodge, Montana:

November 9, 1925.

My dear Mr. Middleton:

You have submitted for an opinion the two following questions:

1. Since the enactment of chapter 177, session laws of 1925, making the warden of the state penitentiary registrar of motor vehicles, is the warden required to administer chapter 113 of the session laws of 1925 providing for the registration of motor vehicles and the issuance of certificates of title thereto?

2. If the warden administers the above act can he use the moneys in the auto theft fund created by section 17 of said law for the purpose of purchasing necessary office supplies and equipment to enable him to put into effect the provisions of said chapter 113?

Chapter 177, *supra*, is the later of the two acts, having been approved March 16, 1925, as against March 10, 1925, the date of the approval of chapter 113. Therefore, to the extent of any inconsistency between these two laws, the later in time will prevail.

Section 1 of chapter 177 provides that the warden of the state penitentiary "is hereby constituted the registrar of motor vehicles." Subdivision 5 of said section also provides that "all office equipment, books, files and records belonging to the motor vehicle department as now located shall be transferred to the state penitentiary." It is true that this act does not specifically and in terms state that it shall be the duty of the warden as registrar of motor vehicles to administer the provisions of chapter 113. It appears to me, however, that it was clearly the intent of the legislature that he should do so from the fact that he is made registrar of motor vehicles.

Under the terms of chapter 113 the registrar of motor vehicles is the officer who administers that act. It is true that section 2 of chapter 113 provides that the secretary of state shall issue the certificates of title authorized by the act. At the time of the passage of chapter 113 the secretary of state was the registrar of motor vehicles; hence, the legislature used the two terms interchangeably in the act. When, however, by chapter 177 the warden of the state penitentiary was made registrar of motor vehicles I think it clear that the legislature intended that he should administer all laws relating to the registration of motor vehicles which had theretofore been administered by the secretary of state.

Your first question is, therefore, answered in the affirmative.

As to your second inquiry, section 17 of chapter 113 creates an auto theft fund and section 18 provides that all moneys in the auto theft fund "shall be used first to meet the necessary additional expenses of the registrar of motor vehicles incurred by the performance of duties." If, in the performance of your duties in administering chapter 113, supra, it is necessary that you procure office supplies and equipment to enable you to carry out the terms of the act, it is my opinion that the cost of the same may legally be paid out of the auto theft fund.

Very truly yours,

L. A. FOOT,
Attorney General.