

Statutes—Repeal—Corporations.

Section 5993 R. C. M. 1921, being a special statute, is not repealed by the general provisions of section 5918, as amended by chapter 28, laws of 1925.

C. T. Stewart, Esq.,
Secretary of State,
Helena, Montana.

June 3, 1926.

My dear Mr. Stewart:

You have requested my opinion on the following question:

“Is section 5953 R. C. M. 1921 repealed by the provisions of chapter 56, laws of 1921 and chapter 28, laws of 1925?”

Section 5993, *supra*, was enacted as section 18, laws of 1883, and provides in part as follows:

"Any corporation organized under the laws of the state of Montana whose stock is not assessable may, by and with the consent of stockholders in such corporation, holding three-fourths of the stock of such corporation, in writing, spread upon the records of such corporation, render its stock assessable, under the provisions of this chapter. * * * "

Chapter 56, laws of 1921, now chapter 2, part III of the civil code of Montana of 1921, was an act to provide for changes in corporate organization and management, and section 5918 of this chapter provides as follows:

"Any corporation now existing or hereafter organized under the laws of the state of Montana may, in the manner herein provided, amend its articles of incorporation by changing the name, place of business or number of directors, by changing the number, par value, character, class, or preference of its shares of capital stock, by increasing or decreasing the capital stock, by changing or extending its business to embrace any purpose for which corporations may be organized under the laws of Montana, by extending its term of existence not to exceed forty years from the date of its incorporation, or by an amendment in respect to any other matter which might lawfully have been originally provided in such articles of incorporation."

This section was amended by chapter 28, laws of 1925, as to the extension of the time of corporate existence but otherwise the provisions remain the same. The question presented is: Is the language of section 5918, *supra*, specific enough to warrant the implication that it was the intention of the legislature to repeal the special provision of section 5993 in regard to the changing of non-assessable stock to assessable stock?

"The doctrine of repeal by implication is not favored in law, and will not be resorted to except where the repugnance or opposition is too clear and plain to be reconciled."

Moss vs. City of St. Paul, 21 Minn. 421;

Pons vs. State, 49 Miss, 1;

State ex rel Kellogg vs. Bishop, 41 Mo. 16.

"A later statute which is general and affirmative does not abrogate a former one which is particular, unless negative words are used, or unless the two acts are irreconcilably inconsistent or repugnant."

McVey vs. McVey, 51 Mo. 406.

From the above it is clear that unless the two sections above are repugnant and cannot be reconciled it cannot be held that section 5918 repeals section 5993, and in view of the fact that these sections can be construed so as to give effect to both, and that section 5918 is a general statute which does not expressly repeal the special provisions of section

5993, it is my opinion that section 5993 is not repealed by section 5918, or the amendment thereto, and that the same is still in full force and effect.

Very truly yours,

L. A. FOOT,

Attorney General.