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OPINION NO. 5
January 13, 1956

To: J. A. Bartruff, Deputy State Conservationist
U. S. Department of Agriculture

By: Robert H. McPhillamey, Deputy Attorney General

QUESTION: Chapter 71, Session Laws of Wyoming, 1955, amended Paragraph (J) or Section 34-1409, Wyoming Compiled Statutes, 1945. Chapter 130, Session Laws of Wyoming, 1955, also amended Section 34-1409 and by so doing reinstated the wording of Paragraph (J) as it was prior to the adoption of Chapter 71. Does Chapter 130 have the effect of repealing Chapter 71? ANSWER: No.

Repeals by implication are not favored.

It is our opinion that Chapters 130 and 71 may be harmonized and reconciled and Paragraph (J), as amended by Chapter 71, Session Laws of Wyoming, 1955, may be given effect.

Sutherland on Statutory Construction, 3rd Ed., Vol. 1, page 483, Sec. 2020, states:

"The enactment by legislative assembly of two or more acts upon the same subject matter creates a presumption that the acts which were born of the same legislative mind were actuated with the same policy, and were intended to coexist to attain by their mutual operation the object of the legislation. The rules of construction and interpretation of acts in pari materia apply with singular force to enactments promulgated by the same legislative body, with the consequent strengthening of the presumption against implied repeals.***The enactment of the two statutes upon the same subject, at the same session was held in itself to be an indication of the intent of the legislature that both acts should have a co-terminus operation.

"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."

See also in Re Cadwell's Estate, 26 Wyo. 412.

In footnote 4, page 484, of Sutherland, Statutory Construction, the statement is made that, "It cannot be presumed that the Legislature intended to undo or repeal an act to which it had but just assigned a valid function." (Citing Cudahy Bros. Co. v. La Budde, 92 Fed. 2d 937.) It is our opinion that there is not an irreconcilable conflict existing and further that from an examination of the titles to the two acts it was the intention of the legislature, in enacting Chapter 130, to merely repeal thereby Paragraph (N) of Section 34-1409, pertaining to the exemption from taxation of the property of soil conservation districts. The only change made by Chapter 130 was to eliminate Paragraph (N) and the re-enactment and amendment procedure used was a roundabout method of repeal. The title of the Bill (Original House Bill No. 9) refers to the exemption from taxation of property of Soil Conservation Districts and is as follows:

"An act to amend and re-enact Section 34-1409, Wyoming Compiled Statutes, 1945, relative to the exemption of taxation of property and property rights of districts organized under the Wyoming Soil Conservation Districts law."

The entire re-enactment of the whole section was a cumbersome and unnecessary procedure for the mere purpose of repealing Paragraph (N), Chapter 71, Session Laws, 1955, only adds

to the provisions of Paragraph (J) and contains all of the provisions formerly contained in Paragraph (J) and as re-enacted by Chapter 130, Session Laws, 1955, even to the exact wording, and by the addition of the words pertaining to Public Law 566, clearly expressed the intention of the legislature to include watersheds, conservation of water, water utilization, flood-prevention projects undertaken by the United States, and to authorize Soil Conservation Districts to enter into agreements with the United States or any of its agencies under Public Law 566 for such purposes. We are unable to ascertain any irreconcilable conflict between the two acts.

The two acts may be read together as though passed as a single act. Sheridan County Power District v. Chicago, B & Q Railroad, Et Al., 61 Wyo. 365 (1945).
