

3416.

MOTOR VEHICLES—LAWS RELATING TO TRANSFER OF TITLE—
PRINGLE AND MARSHALL BILLS OF 89TH G. A. DISCUSSED WITH
REFERENCE TO EFFECT OF REPEAL OF FORMER BILL BY
LATTER.

SYLLABUS:

Discussion of matters relating to the effective dates of Substitute House Bill No. 104 and Senate Bill No. 342, of the 89th General Assembly, which bills relate to the transfer of title of motor vehicles.

COLUMBUS, OHIO, July 9, 1931.

HON. GEORGE WHITE, *Governor of Ohio, Columbus, Ohio.*

MY DEAR GOVERNOR:—This will acknowledge receipt of your request for my opinion, which reads as follows:

“The General Assembly several months ago passed HB No. 104 (Pringle) which was titled ‘an act to prevent thefts and frauds in the transfer of title to motor vehicles by amending certain sections.’ This bill was signed and has since been filed in the office of the Secretary of State. I am advised that it will become a law on August 1, 1931.

During the retiring hours of the session SB No. 342 (Marshall) was passed, which if it becomes a law will repeal the aforesaid motor vehicle law. The repealing bill is now before me for signature. If the Marshall Bill was signed and filed in the office of the Secretary of State today, I am advised that it would become a law on October 4th, 1931.

What will be the status of the Pringle Bill, during the interim, that is after the effective date of the said Pringle Bill, and before the effective date of the Marshall Bill? I ask this question with special reference, and request you to look at it from the point of view of the practicable sale of motor vehicles during this period.

Further, insofar as a large number of motor vehicles are purchased and a mortgage given in part payment, what would be the legal effect of such mortgage given during this period?”

House Bill No. 104, known as the Pringle Bill, passed April 10, 1931, is entitled:

“A BILL

To prevent thefts and frauds in the transfer of title to motor vehicles by amending sections 6290 and 6294 of the General Code, by supplementing section 6290-1 by the enactment of sections 6290-2, 6290-3, 6290-4, 6290-5, 6290-6, 6290-7, 6290-8, 6290-9, 6290-10, 6290-11, 6290-12, 6290-13, 6290-14, 6290-15 and 6290-16 of the General Code, and by repealing sections 6310-3, 6310-4, 6310-5, 6310-6, 6310-7, 6310-8, 6310-9, 6310-10, 6310-11, 6310-11a, 6310-12, 6310-13, 6310-13a and 6310-14 of the General Code.”

The bill was signed by the Governor, and will become effective July 31, 1931. By its terms, present sections 6290, 6294, 6310-3 to 6310-14, inclusive of the Gen-

eral Code, are specifically repealed. Sections of the Code bearing Nos. 6290, 6294, 6290-2 to 6290-16, General Code, are enacted.

Later in the session of the 89th General Assembly, Senate Bill No. 342, known as the Marshall Bill was passed. The title of this bill is as follows:

"A BILL

To repeal 'An act to prevent thefts and frauds in the transfer of title to motor vehicles by amending sections 6290 and 6294 of the General Code, by supplementing section 6290-1 by the enactment of sections 6290-2, 6290-3, 6290-4, 6290-5, 6290-6, 6290-7, 6290-8, 6290-9, 6290-10, 6290-11, 6290-12, 6290-13, 6290-14, 6290-15 and 6290-16 of the General Code, and by repealing sections 6310-3, 6310-4, 6310-5, 6310-6, 6310-7, 6310-8, 6310-9, 6310-10, 6310-11, 6310-11a, 6310-12, 6310-13, 6310-13a and 6310-14 of the General Code', passed April 10, 1931, and filed in the office of the secretary of state May 2, 1931."

As stated in the title of Senate Bill No. 342, quoted above, the purpose of the enactment of this said bill is to entirely repeal the provisions of the said Pringle Bill.

By the terms of the latter bill, (the Marshall Bill) Sections 6310-3 to 6310-14, inclusive of the General Code, which were repealed by the Pringle Bill, are enacted in substantially the same form in which they now exist. Sections 6290 and 6294, General Code, which were both amended in the Pringle Bill, are enacted in the Marshall Bill in substantially although not precisely the same form in which they are at present in effect.

As the repealing clause of the Pringle Bill becomes effective at the same time that the balance of the bill goes into effect Sections 6310-3 to 6310-14 of the General Code, will, after July 31, 1931, stand repealed. Sections 6290 and 6294, of the General Code, as now in force, will be in force as amended in the said Pringle Bill and Sections 6290-2 to 6290-16, General Code, as enacted in the Pringle Bill will be in effect. These provisions of law as enacted in the Pringle Bill will remain in effect until legislation repealing those sections becomes effective, which will occur when the provisions of Senate Bill No. 342 (the Marshall Bill) become effective, if ever they do.

It is well settled that where there is an express repeal of an existing statute, and a re-enactment of it *at the same time*, or a repeal and a re-enactment of a portion of it, the re-enactment neutralizes the repeal so far as the old law is continued in force, however, a repeal is not rendered inoperative by a re-enactment where they are not simultaneous, where there is an interval of time after the repeal takes effect before the re-enactment goes into operation. Lewis Sutherland on Statutory Construction, Second Edition, Section 238.

Unless Senate Bill No. 342 (the Marshall Bill) is vetoed, there will be a period of eight or nine weeks that the provisions of law embodied in the Pringle Bill will be in effect and will be controlling with respect to matters which they cover.

The effect of the system of transferring title to motor vehicles, as set up in the Pringle Bill is, in short, to substitute "certificates of title" for the present "bills of sale." It will no doubt involve some cost and cause some confusion to pass from the old system to the new. Because of this and the short time the law will be in operation, providing the Marshall Bill is not vetoed, there is no doubt considerable difficulty will be experienced in securing a uniform and orderly operation of the law. However, this difficulty does not serve to change the law, and I

have no doubt but that administrative officials in charge of the matters will readily meet the difficulty. By the terms of Section 6290-7, General Code, as enacted in the Pringle Bill, it is provided:

“The commissioner shall issue such regulations as he may deem necessary to insure uniform and orderly operation, and the clerks of court of all counties shall conform thereto.”

By force of the above provisions, the Commissioner of Motor Vehicles is vested with considerable authority and discretion, and I have no doubt that the present commissioner is well able to provide for the administration of this law so as to insure the legality of transfers and sales of motor vehicles during the interim between the effective date of the Pringle Bill and its repeal, whenever that may be.

So far as sales of motor vehicles are concerned, it is well settled that an assignment or transfer of a motor vehicle (not violative of the uniform sales laws of this state) which is accompanied by delivery of possession, is nevertheless a valid contract between the parties thereto, even though the technical procedure provided for the transfer of motor vehicles, as contained in penal statutes intended to prevent thefts and frauds in the transfer of title to motor vehicles, is not strictly complied with. *Credit Company v. Schreyer*, 120 O. S., 568.

With respect to the effectiveness of mortgages on motor vehicles executed after the effective date of the Pringle Bill, the provisions of the Pringle Bill must necessarily be complied with in order that third parties may be charged with notice of the said mortgage. As between the parties, the mortgage is no doubt good, even though its existence is not noted on the “certificate of title” as provided for by the terms of the Pringle Bill. The change with respect to the filing and recording of chattel mortgages on motor vehicles, as provided for in the Pringle Bill, from the present method of filing and recording of such mortgages is that provided for by Section 6290-9, General Code, as contained in the said bill. It is there provided in effect, that the present law relating to the filing and depositing of chattel mortgages shall not apply to chattel mortgages or a conveyance intended to operate as a mortgage, trust receipt, conditional sales contract or other similar instrument covering a motor vehicle. The existence of such instruments covering a lien on motor vehicles must be noted, in accordance with the terms of the Pringle Bill on the certificate of title of said motor vehicle, in order that third parties may be charged with notice of the said lien. This provision of law will not be difficult to comply with, and here again, I am of the opinion that the Commissioner of Motor Vehicles may issue regulations with reference to these matters which will provide a simplified method of noting the existence of mortgages and liens so as to insure their validity with respect to third parties.

Respectfully,

GILBERT BETTMAN,

Attorney General.

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APPROVAL, NOTES OF WADSWORTH CITY SCHOOL DISTRICT,
MEDINA COUNTY, OHIO—\$3,000.00.

COLUMBUS, OHIO, July 10, 1931.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.