the subject-matter of salaries payable to City Clerks, but also Chapter 357, *supra*, deals with such subject in a more minute and comprehensive manner. For this reason, I consider said Chapter 357, *supra*, as being more in the nature of a special act whose provisions should control insofar only as any conflict may appear between the two Acts.

In conclusion, therefore, it is my opinion that the salary to be paid the City Clerk of the City of South Bend is governed by the Acts of 1957, Ch. 357, effective April 1, 1957; also the salary there authorized will not be affected on January 1, 1958, the date upon which the other Act will become effective.

OFFICIAL OPINION NO. 16

May 22, 1957

Honorable Joda G. Newsom
Chairman, State Board of Tax Commissioners
404 State House
Indianapolis 4, Indiana

Dear Mr. Newsom:

This is in reply to your inquiry in which you ask the following question:


"I respectfully request your official opinion and interpretation of Sections 2 and 3 of the above Act as to the following point:

"1—Will the assessors be entitled to the salaries as set out in this Act for the remainder of 1957 calendar year?"

The Acts of 1957, Ch. 350, Secs. 2, 3 and 4 read as follows:

"SEC. 2. Immediately after passage of this act and at the regular annual meeting of the county council each year thereafter, the county council of each county of the state shall determine and fix the amount of the salary of the township assessors for the townships located in such county for the ensuing year within the limits as provided for herein."
"SEC. 3. If any county council shall not so fix the amount of such salary pursuant to the provisions of Section 2 of this act, then the minimum salary provided for herein for each of the classes of township, shall be the salary of such township assessor for any such year: Provided, however, That whenever the salary of the township assessor in any township is fixed at an amount greater than the minimum salary for the class, such amount so fixed shall continue to be the salary of such assessor for succeeding years until changed by the county council as provided for in this act or as otherwise herein provided.

"SEC. 4. Whenever in any year, the classification of any township shall change by reason of a change in population or the assessed valuation, the salary of the township assessor shall be fixed by the county council as provided for in this act, and if not so fixed, then the salary of any such township assessor shall be the minimum for the class to which such township belongs by reason of any such change."

The statute is ambiguous as to the time when the salary provisions are to be effective.

The Acts of 1899, Ch. 154, Sec. 7, as amended, as found in Burns’ (1948 Repl.), Section 26-507, and the Acts of 1943, Ch. 16, Sec. 4, as found in Burns’ (1948 Repl.), Section 26-507a, provide that there shall be a regular annual meeting of the council on the first Tuesday after the first Monday of September of every year for the purpose of the adoption of the annual budgets, fixing the rate of tax levy and making appropriations. It must be presumed that the members of the General Assembly were cognizant of the fact that the annual meeting of the county council was by law set in September of each year, and, therefore, by using the words “immediately after the passage of this act and at the regular annual meeting of the county council each year thereafter” the General Assembly must have contemplated that the county council should meet prior to the regular meeting of the county council. If at all possible, it is to be presumed that the General Assembly meant to give effect to each word and sentence of the Act and did not intend to use any useless words.
The words "for the ensuing year," in Section 2 of the statute, do not necessarily mean the following fiscal year. In People ex rel. Williams v. Wabash Railroad (1949), 403 Ill. 53, 85 N. E. (2d) 14, the Court held that similar language had reference to the time following the date of a certain levy, rather than to the next fiscal year. Therefore, it is reasonable to conclude that the words "for the ensuing year" in Section 2 of the statute in question have reference to both the remainder of the year following the passage of the Act, and the fiscal years following the succeeding regular annual meetings in September of each year.

It is an elementary rule of statutory construction that in order to ascertain or discover the legislative intent the statute must be considered as a whole.

State ex rel. Indianapolis Traction & Terminal Co. v. Lewis (1918), 187 Ind. 564, 120 N. E. 129;


An examination of the statute as a whole strengthens the conclusion as set out above. Section 15 of the Act provides as follows:

"SEC. 15. Whereas an emergency exists for the more immediate taking effect of this act, the same shall be in full force and effect from and after its passage."

It appears from the inclusion of the emergency clause and the language of Section 2, supra, providing for a meeting of the county council immediately after the passage of the Act, that the General Assembly intended the salary provisions of the Act to be effective immediately upon its passage.

Therefore, it is my opinion that the township assessors are entitled to the salaries as set out in this Act from the effective date of the statute, and upon the failure of the county council to fix the salaries pursuant to the statute, the township assessors are entitled to the minimum salary for the class within which the particular township is includable as provided in the
Act. The application of this opinion is confined to salaries payable to township assessors as provided in Acts of 1957, Ch. 350, supra. Said Act is not to be confused with the Acts of 1957, Ch. 211 (H. 298) concerning salaries payable to deputy township assessors, nor is this opinion to be construed as applicable to the latter Act for the reason that it does not contain language substantially similar to that upon which reliance is based in this opinion.

OFFICIAL OPINION NO. 17

May 27, 1957

Mr. T. M. Hindman
State Examiner, State Board of Accounts
304 State House
Indianapolis, Indiana

Dear Mr. Hindman:

Your letter of May 8, 1957, requesting an Official Opinion, has been received and reads as follows:

"Chapter 112, Acts 1957, concerns the allocation of tax money and the responsibility for the education of school children upon the annexation of territory by cities and towns. This act did not carry an emergency clause and therefore will not become effective until the acts are promulgated. Chapter 96, Acts of 1955, was specifically repealed by section 6 of Chapter 112, Acts 1957.

"We submit three hypothetical cases of separate areas annexed by separate ordinances as follows:

"Ordinance #1. Relates to an industrial area only; there are no school children residing therein; approximately 1/10 of the total assessed valuation of the township lies in this area. Annexation became final February 15th.

"Ordinance #2. Relates to a residential area only: the number of school children in this area is equal to approximately 1/20 of the population of the school township. Annexation became final February 15th."