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was elected, by virtue of a change of population, as shown by a new census, is void because it violates article 7, section 13, of the Constitution of Indiana.

This opinion is limited to the effect of the statute insofar as it would decrease the salary of incumbent judges and does not affect the force or validity of the statute in increasing the salary of an incumbent judge, when application of the statute has that effect by virtue of a change of population as determined by the last census.

OFFICIAL OPINION NO. 12

January 30, 1952.

Mr. Otto K. Jensen,
State Examiner,
State Board of Accounts,
Room 304, State House
Indianapolis 4, Indiana

Dear Sir:

I have your request for an official opinion which reads as follows:

"The compiler of Burns' Indiana Statutes has inserted a compilers note in Volume 4 of the 1951 cumulative pocket supplement following title and section numbers pertaining to probation officers to the effect that the salary provisions in each of the sections has been superseded by the provisions of Ch. 316, Acts 1951, regular session.

"Ch. 316, Acts 1951 appears to provide for a possible maximum salary for chief adult probation officers and assistant adult probation officers.

"The only authority we have been able to find for the chief adult probation officers is the Juvenile Court Act, Ch. 347, Acts 1945, Sec. 17, paragraph 3, Burns' 1951 Supp. 9-3117.

"The digest of House Bill 180 which became Ch. 316, Acts 1951 indicates the purpose of the bill, to establish

a maximum salary for certain probation officers. The title of the Act concerns salaries of adult and assistant adult probation officers and clerical assistants while the body of the act speaks of chief adult probation officers and assistant adult probation officers without mention of clerical assistants.

“Sec. 6 of the Act expresses the legislative intent ‘to supercede all previous enactments purporting to establish salaries for *adult probation officers*.’

“We request your official opinion upon the following:

- “1. Do the provisions of Ch. 316, Acts 1951 for establishment of salaries apply to all probation officers of all courts or are they restricted to chief adult probation officers provided for by Burns’ 9-3117?”

It is interesting to note that two statutes affecting salaries of probation officers were passed by the 1951 Session of the Legislature; they are Chapters 316 and 320. Chapter 316, same being Burns’ 1951 Supplement, 9-2214d * * * *et seq.* is the statute about which you inquire. Chapter 320 amends Section 17 of Chapter 347 of the Acts of 1945 as subsequently amended, to which you refer in your letter and is found in Burns’ 1951 Supplement, 9-3117.

You state that the only reference you find to chief probation officers is in Paragraph 3 of Burns’ 9-3117 (*supra*) which refers to probation officers appointed by the juvenile courts within certain population ranges; however, Section 6A of Chapter 210 of the Acts of 1927 as subsequently amended, same being Burns’ 9-2214A, uses that term in connection with probation officers to be employed jointly by more than one court in a county. Burns’ 9-3117 (*supra*) applies only to probation officers appointed by juvenile courts and is in fact an integral part of the 1945 Juvenile Court Act. Section 4 of Chapter 210 of the Acts of 1927, same being Burns’ 9-2212, is the provision of the General Probation Act which deals with the appointment and compensation of probation officers. That section reads as follows:

“The judges of the several circuit courts and the judge of the criminal, city and municipal courts may

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appoint one or more probation officers, to serve such courts, and under the direction of such judges, as the needs of such courts shall require. The judges of two or more courts within a county or in adjoining counties, may jointly appoint a probation officer to serve in their respective courts. The appointment of a probation officer shall be in writing and shall be entered upon the records of the court making such appointment. The judge or judges of such courts appointing a probation officer, are hereby authorized to fix the compensation to be paid such officer, at not to exceed twenty-five hundred dollars (\$2500) per annum. Probation officers shall be allowed their actual expenses necessarily incurred in the performance of their duties when the same are approved by the court under which they are serving."

There are several expressions contained in Chapter 316 which tend to show that the term "adult probation officer" and "chief adult probation officer" are not used in a technical or limited sense. Thus, Section 1 says, regardless of the court to which he is attached, under a technical usage based on Burns' 9-3117, a chief adult probation officer could be attached only to a judicial court. A similar reference is made concerning assistant adult probation officers in Section 2. Section 3 refers to the governmental unit in which there is a chief adult probation officer rather than the county as would necessarily be true if a chief adult probation officer is to be considered only a person appointed pursuant to Burns' 9-3117 (*supra*).

It is well established that the ultimate aim in all statutory construction is to ascertain legislative intent.

Construing Chapters 316 and 320 in *pari materia*, it is clear that although Chapter 316 uses a somewhat ambiguous term, "chief adult probation officer," that by that term it means a chief probation officer other than one dealing solely with juveniles under the Juvenile Court Act. This being true, the provisions of Chapter 316 apply to the salaries of probation officers of substantially all courts and are not restricted to the chief adult probation officers provided for by Burns' 9-3117.