$1,000 to which may be added imprisonment in the Indiana State Reformatory or State Prison for a period of not less than one nor more than five years.”

It seems a well settled rule in Indiana that, although criminal statutes should not be wantonly narrowed, limited or emasculated (see Morris v. State (1949), 227 Ind. 630, 88 N. E. 2d 328), they must be strictly construed to avoid a penalty, rather than to create one where an ambiguity exists and they may not be extended by inference.

Gingerich v. State (1950), — Ind. —, 93 N. E. 2d 180;
City of Ft. Wayne v. Bishop (1950), — Ind. —, 92 N. E. 2d 544;
Manners v. State (1936), 210 Ind. 640, 5 N. E. 2d 300.

In the above quoted portion of the statute there is no mention of the cargo except that trucks shall not be released until the weight is reduced. In view of the rules of statutory construction just stated, it is my opinion that it would be improper to impound or hold the cargo with an over-weight truck except as it is necessary to the holding of the truck. Thus, a truck may be impounded and moved as necessary. However, permission to remove the cargo from the truck after it is impounded may not be refused.

OFFICIAL OPINION NO. 83

October 24, 1951.

Honorable Noble W. Hollar,
Chairman,
State Board of Tax Commissioners,
Room 301, State House,
Indianapolis, Indiana.

Dear Mr. Hollar:

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

“In connection with the review of all budgets of the State, a question has arisen as to the proper con-
1951 O. A. G.

struction to be placed upon certain provisions con-
tained in Chapter 247, Acts of 1951, Page 702, (Burns
28-1106, 1107).

"Said Chapter provides that 'the tax levying bodies
or officials of any school township, town or city shall
have the right to levy a tax not to exceed two dollars
on each one hundred dollars of taxable property for
the special school revenue fund of any such school
township, town or city in addition to any other tax
for said fund now provided by law; and they also
shall have the right to levy a tax not to exceed two
dollars on each one hundred dollars of taxable prop-
erty for the supplementary tuition fund of any such
school township, town or city in addition to any
other tax for said fund now provided by law: Pro-
vided, however, That in no case shall the total levy
for the special school fund and the supplementary
tuition fund, including any additional tax which may
be levied as herein provided for, exceed the sum of
two dollars and thirty cents on each one hundred
dollars worth of taxable property; Provided, further,
That nothing in this act shall be deemed to prevent
said tax levying bodies or officials from levying any
other tax provided for in Chapter 126 of the Acts
of 1917 or Chapter 45 of the Acts of 1919.'

"1. Does the lease rental contract made in accord-
ance with Chapter 273, Acts 1947, become an obliga-
tion against the Special School Revenue Fund?

"2. Section 11 of Chapter 273, Acts of 1947, pro-
vides for the annual levy of a tax. Does this require
an increase in the Special School Revenue fund levy
or a separate fund and levy?

"3. Would the rate necessary to provide the funds
to pay the lease rental be considered in the limitation
of $2.30 as provided in Section 1, Chapter 247, Acts
1951?

"4. If the tax for the lease rental contract be-
comes a part of the Special Revenue Fund and the
rental payments together with the other ordinary
necessary school operation, such as tuition support,
supplies, etc., causes the combined rate to exceed $2.30 and you further find that the $2.30 limitation is not effective on the lease rental obligation, then could the rate be approved on the premise that the ordinary necessary school expenses are reasonable and within the limitations of the law and the excess is occasioned by the necessary tax to meet the lease rental payments?"

In order to answer the first question, it is necessary to examine the wording of the applicable provisions of Chapter 273 of the Acts of 1947 as amended, same being Burns 1951 Supplement, Sec. 28-3220, et seq. Section 11 provides:

"Any school corporation which shall execute a lease contract under the provisions of this act (§§ 28-3220—28-3232) shall annually levy a tax sufficient to produce each year the necessary funds with which to pay the lease rental stipulated to be paid by such school corporation in such lease contract. Such levy shall be reviewable by other bodies vested by law with such authority to ascertain that the levy is sufficient to raise the amount required to meet the rental of such lease contract. The first tax levy shall be made at the first annual tax levy period following the date of the execution of the aforesaid lease contract and said first annual levy shall be sufficient to pay the estimated amount of the first annual lease rental payment to be made under said lease. Thereafter, the annual levies herein provided for shall be made."

(Our emphasis.)

In order to ascertain the intent of the legislature in enacting this section, it seems advisable to contrast its wording with other statutes. Burns 65-301, concerning townships, provides that the proper authorities shall "determine and fix the rate of taxation." Burns 25-520, concerning counties, generally provides that the appropriate authority shall "fix the tax rate." Burns 28-1024, providing a special levy for transportation, has materially different wording, which is in part as follows:

"Subject to the provisions of sections 5 (§ 28-1025) and 6½ (§ 28-1027) hereof, whenever any local school
corporation shall levy a tax levy and rate equivalent to ten cents (10c) on each one hundred ($100) of adjusted assessed valuation within the limits of the corporation hereby authorized and hereafter known as the transportation tax to be paid into the special school revenue fund, * * *.”

The general system of tax levies for school funds provides, in addition to the special transportation tax levy and any other special levies, a Supplementary Tuition Fund and a levy therefor (Acts 1919, Chapter 45, Burns 28-1104) and a Special School Revenue Fund and a levy therefor (Acts 1917, Chapter 126, same being Burns 28-1101).

The Lease Rental Act, to which you refer, is difficult to classify exactly into the purposes for which funds are raised by the various tax levies.

It is to be noted Section 11 of Chapter 273 of the Acts of 1947, above quoted, after specifically authorizing such tax levy be reviewable by authorized authority, is immediately followed by the words “to ascertain that the levy is sufficient to raise the amount required to meet the rental of such lease contract.” The effect of these words is clearly restrictive on the authority of the reviewing bodies and as such would clearly take such tax levy out of the operation of the $2.30 tax limitation law.

It is to be noted the Tax Limitation Law, Chapter 247, Acts of 1951, amends Chapter 39, Acts of 1945, as subsequently amended by Chapter 232 of the Acts of 1947, without making any substantial change in the language of the prior statutes, except to raise the maximum authorized tax rate. Except for such amendment in the maximum permissible tax rate, it is in fact a reenactment of the prior statutes. It is a general statute, while Chapter 273 of the Acts of 1947 is a special intervening statute on the specific question of lease rental of school buildings from holding companies organized under that act.

It is further to be noted, if it be construed so that the effect of the 1951 enactment of Chapter 247 impaired the obligations of contracts heretofore issued under Chapter 273 of the Acts of 1947, it would be violative of the impairment of contract provisions of both the federal and state constitutions. Any such construction would not be warranted.
A consideration of the above facts calls into operation the following well recognized principles of statutory construction:

Statutes must be construed as a whole in order to determine the legislative intent.
Schneider v. State ex rel. Leap (1934), 206 Ind. 474, 478;
State v. Ritter's Estate (1943), 221 Ind. 456, 469, 470.

Courts will look to the general purpose and scope of a statute to determine the legislative intent.
City of Indianapolis v. Evans (1940), 216 Ind. 555, 567;

In ascertaining the legislative intent as to a statute, the court may take into consideration other acts in pari materia whether passed before or after the act in question.
Sherfey v. City of Brazil (1937), 213 Ind. 493, 497, 498.

It is a fundamental rule of construction that a special act is not repealed or modified by implication from a later general act on the same subject. It must be by express repeal or by repugnance.
Million et al. v. Metropolitan Casualty Ins. Co. et al., (1933), 95 Ind. App. 628, 637;

It has further been stated that where a later statute merely reenacts the provisions of an earlier one, it does not repeal an intermediate act which has qualified or limited the earlier one, but such intermediate act will be deemed to remain in force, and to qualify or modify the new act in the same manner as it did the first.
City of New Albany v. Lemon (1926), 198 Ind. 127, 137;
Public Service Commission v. City of Indianapolis (1923), 193 Ind. 37, 49.
I, therefore, do not believe Chapter 247 of the Acts of 1951 repeals or modifies Chapter 273 of the Acts of 1947. In applying the above rule of statutory construction that in ascertaining the legislative intent the courts take into consideration other acts in the para materia, whether passed before or after the act in question, it is pointed out that the statutory provision generally expressing the same limitations on the right of review for a tax levy, and having a similar objective, is Sec. 21 of Chapter 309 of the Acts of 1951, same being the statute establishing the Indiana State School Authority, which reads as follows:

"Any school corporation which shall execute a lease under the provisions of this act shall annually levy a tax or taxes sufficient to produce in each year the amount or amounts necessary to pay the annual lease rentals and other outlays stipulated in such lease to be paid by such school corporation. No County Board of Tax Adjustment or other governmental agency authorized to review tax levies of school corporations shall have power to reduce such tax levy or levies below the amount necessary to produce such amount or amounts. The first such annual tax levy or levies shall be made at the first annual tax levy period following the execution of such lease and shall be sufficient to produce such amount or amounts for the first year of the term of such lease."

So, we see we have two very recent statutes with somewhat common objectives, each dealing with rental school house payments, and authorizing tax levies to meet such payments where the right of review by the State Board of Tax Commissioners is greatly restricted. From the language of each of these statutes, it can hardly be said that they should be so interpreted as to require such funds to be channeled through the Special School Revenue Fund where the statute governing said fund is entitled to full review by the State Board of Tax Commissioners.

I am, therefore, of the opinion taxes raised for the payment of lease rental contracts in accordance with the provisions of Chapter 273, Acts 1947, do not become an obligation against the Special School Revenue Fund, are not governed by the $2.30 limitation as provided in Section 1,
OPINION 84

Chapter 247, Acts 1951, but are considered a separate and special tax levy and will constitute a separate fund. This obviates the necessity of any answer to your other questions.

OFFICIAL OPINION NO. 84

September 25, 1951.

Honorable Frank T. Millis,
Auditor of State,
State House,
Indianapolis, Indiana.

Dear Sir:

I have your request for an official opinion in which you ask the following questions:

"We request an official opinion as to the proper date to be used in computing the increased salary of judges of the circuit court when the 1950 census is declared official.

"Should the increased payment be made from:

"A. The date of the census (April 1, 1950).

"B. The date that the census is certified to the Governor, or

"C. Such other date as you might determine."

The United States Decennial Census becomes effective as of the day when taken at the time when it is officially announced. See 1951 O. A. G. No. 12 and cases cited (a copy of which is attached). See also 1951 O. A. G. No. 6 (a copy of which is attached) holding that salaries of justices of the peace are increased or decreased due to a change in population as shown by the last decennial census as of April 1, 1950, when the census was taken. In this regard, also see 1950 O. A. G. No. 38, which determines what is required for an official declaration of the United States census.

On the basis of these opinions, it is my opinion that when official declarations are made by the United States Census Bureau of the population of the county or counties comprising a judicial circuit, then the judge of the circuit court is