to the registration fee required by the former statute. It is to be paid at the time for the payment of annual registration fees. Since these fees are payable to and including 1 April 1951 for the present licenses, and since the Act became effective under the emergency clause, immediately upon being signed by the Governor and filed with the Secretary of State, said additional fees should be paid for this year's registration.

You further desire to know if new forms of renewal applications must now be mailed to supplement the old forms already in the hands of such applicants. As above pointed out, this is in addition to the regular renewal fee and I see no necessity of mailing any new forms of renewal applications, but that a notice should be sent to each, advising them of the contents of the statute, and that the additional fee must be paid.

OFFICIAL OPINION NO. 25

March 20, 1951.

Mr. Thomas R. Hutson,
Commissioner of Labor,
Department of Labor,
Room 225, State Capitol,
Indianapolis 4, Indiana.

Dear Mr. Hutson:

Your letter dated March 19, 1951, has been received and reads as follows:

"I am hereby respectfully requesting an official opinion as to legality and enforceability of House Enrolled Act No. 240 of the General Assembly for 1951. This statute creates an Elevator Subdivision with the Division of Labor within the State of Indiana.

"As originally written and introduced into the Legislature, any references in later Sections of the Act referred correctly to the other proper Section of said Act. However, an amendment was made to said Act in the Senate by the addition of a new Section 2, which is entirely an exemption clause and by said amend-
ment the subsequent Sections of the statute were changed so as to be marked up one numeral, so they would be numbered in chronological order. However, in making this amendment, corresponding changes were not made in the body of the succeeding Section of the Act would correspond with the renumbering of the Sections.

"Will you please advise if this defect in draftsmanship will in any way affect the validity of the Act where the intent of the Legislature is otherwise clearly expressed."

House Enrolled Act No. 240 provides for the creation of an Elevator Safety Subdivision in the State Division of Labor, provides for inspections of elevator-dumbwaiters and moving stairways, provides for fees and contains penal provisions for violation of said statute. The Act declared an emergency to be in effect on and after May 15, 1951.

An examination of the statute, as enacted, reveals that any error is one of draftsmanship and the statute is clearly unambiguous as to legislative intent. If the new Section 2 concerning certain minor exemptions had not been inserted in said statute and the subsequent sections thereof had not been renumbered in consecutive order, all references to other sections and subsections of the statute as made in the body of various sections of the statute would have been clear and accurate.

However, when Section 2 was inserted by amendment in said statute, it caused all references made in any one section of the statute to be inaccurate in that any reference to Section 2 as so made would necessarily be made to Section 3; any reference to Section 3 would clearly refer to Section 4, etc. The references as now contained in said Act just could not apply to the sections referred to, as so numbered.

It is settled by the decisions of this state that where the Legislative intent is clear, an act will not be voided for uncertainty or inconsistency because of an obvious typographical error or omission.

Kos v. State ex rel. Metzler (1940), 218 Ind. 115, 120, 121;
In the case of Kos v. State *ex rel. Metzler*, *supra*, at pages 120 and 121 of the opinion, the court said:

"A careful consideration of the language and terms of the entire act, and its legislative history through all of the amendments, and of the objects and purposes to be accomplished, and of sound public policy, which does not permit of rewards for misconduct above those offered for good conduct and faithful service to the public, precludes the conclusion that the Legislature intended to depart from the provision of the clause as originally adopted, and, by deliberately omitting the words, 'in excess,' substitute a different provision which the literal language of the published act seems to imply. * * *"

"When a legislative intention in the first instance is plain and clear, and consistent with ordinary rational conceptions, and it is established that by typographical error its intention was not correctly reported in the published Acts, and where it is so obvious that there is no room for disagreement among reasonable men that the wording of the reenactments followed the published act, rather than the original language of the enrolled act, only because of inadvertence or mistake, courts are not required to perpetuate the error and ascribe to the Legislature and intention which it obviously never had. * * *"

It has been decided that where a word has been omitted and the context affords the means of correction, the proper word will be deemed substituted or supplied. This is by making the strict letter of the statute yield to the obvious intent.

*Gustavel v. State* (1899), 153 Ind. 613, 617;
*State ex rel. v. Markey, Judge, supra*;
1949 Ind. O. A. G. 384, Official Opinion No. 100.
Your attention is directed to the fact that a somewhat stricter construction is made of statutes containing penal provisions, in that the court will not attempt to legislate concerning penal statutes. (Hargis v. State (1942), 220 Ind. 429, 435.) However, this rule has not seemed to be strictly enforced where the court is not changing the meaning and effect of a statute but is only construing the statute in the light of the clear and evident intention of the Legislature in enacting it, even where statutes contain penal provisions.

Gustavel v. State (1899), 153 Ind. 613, 616, 617;
Marks v. State (1942), 220 Ind. 9, 18-20.

The latter case also announces the well established rule that it is not presumed that the Legislature intends an absurdity. (1945 Ind. O. A. G. 194, 198, Official Opinion No. 41.)

From the foregoing, I am of the opinion House Enrolled Act No. 240 is valid and enforceable and that the same should be read and construed so that any references, appearing in the body of any section of the Act shall apply to that section to which the Legislature clearly intended to refer.

OFFICIAL OPINION NO. 26

March 24, 1951.

Mr. Edwin Steers, Sr.,
Member, State Election Board,
108 East Washington Street Building,
Indianapolis, Indiana.

Dear Sir:

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

"We received a letter from Bartel Zandstra, Clerk of the Lake Circuit Court, Crown Point, Indiana, a paragraph of which is as follows:

"Peter Chronowski, was elected Justice of the Peace for a term of four years beginning January 1, 1951. He qualified and is now holding that office. At present he filed for the Office of Mayor of the City