

In conclusion, it is my opinion that the State Committee on Safety is no longer legally in existence and at present no one is authorized to designate any other vehicles but those of the fire and police departments as emergency vehicles; and it is likewise my opinion that no person shall drive or move any vehicle or equipment other than an authorized emergency vehicle upon any highway with any lamp or device thereon displaying a red light visible from directly in front thereof, unless there be specific statutory authority to do so—such as is found in the statute pertaining to school busses.

OFFICIAL OPINION NO. 54

August 31, 1950.

Harold F. Brigham, Secretary,
Indiana Commission on Public Records,
Indiana State Library,
140 North Senate Avenue,
Indianapolis, Indiana.

Dear Sir:

I have your letter requesting an Official Opinion, which reads as follows:

“The Commission on Public Records asks me to request an Official Opinion with respect to the validity of microfilms of state records which are less than three years old.

“Chapter 219 of the Acts of 1935, under which this commission operates, provides that no state records shall be destroyed until a period of at least three years shall have elapsed from the time they were originally filed.

“According to the provisions of Chapter 195 of the Acts of 1947, original records may be destroyed or disposed of after the time for filing legal proceedings based on such instruments shall have elapsed and the photographic reproductions shall have the force and effect of the original records.

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“For the purposes of saving space while preserving information contained in records of official value, certain state departments have microfilmed records less than three years old and have asked the Commission on Public Records to grant permission for the destruction of the original records.

“The Commission would appreciate an official opinion from you in clarifying the question of whether microfilms may take the place of records which are less than three years old.”

One of the statutes involved reads as follows:

“All public records which, in the judgment of the commission, have no official or historical value, and which occupy space to no purpose in the offices and store rooms of the state, shall be destroyed or otherwise disposed of. No such records shall be destroyed until a period of at least three (3) years shall have elapsed from the time when they were originally filed, and no public record shall be destroyed within a period of three (3) years if the law provides that they shall be kept for a longer period of time, or if the law prohibits their destruction.” Section 63-1903 Burns 1943 Replacement same being acts of 1935, Chapter 219, Section 3.

“No records shall be removed from any office until a period of at least three (3) years shall have elapsed from the date on which such records were filed, nor even after that time if such records are in frequent use by the officer having charge of such office.” Section 63-1904 Burns 1943 Replacement same being acts of 1935, Chapter 219, Section 4.

“It shall be unlawful for any public official or person to destroy any public record unless and until the commission shall have given its approval in writing that such public record may be destroyed and until the commission shall have entered its approval on its own minutes.” Section 63-1908 Burns 1943 Replacement same being acts of 1935, Chapter 219, Section 8.

In 1947 the Legislature passed a subsequent act pertaining to the destruction of Public Records which reads as follows:

“Any officer, office, court, commission, board, institution, department, agent or employee of the state * * * being charged with the duty or authorized or required by law to record, preserve, keep, maintain or file any record, document, plat, paper or instrument-in-writing, may, whenever any such * * * commission * * * of the State * * * shall deem it necessary, for the purpose of recording or copying same; preserving and protecting same, reducing space required for storage or filing of same, or any similar purpose, have or cause to have any or all such records recorded, copied or reproduced by any * * * photographic process which correctly and accurately copies or reproduces * * * the original record, document, plat, paper or instrument-in-writing. When so copied or reproduced to reduce space required for storage or filing such records, the original filing record may be destroyed or otherwise disposed of, provided, however, that no such original filing records shall be destroyed or otherwise disposed of unless nor until the time for filing proceedings based on such instruments shall have elapsed, and provided, further, that final decision as to the destruction or other disposition of such records shall rest with the commission on public records as to state records * * *. Such copies or reproductions shall have the same force and effect at law as the original record * * *.” Section 49-3901 Burns, same being Acts 1947, Chapter 195, Section 1.

At first blush it would seem that these two statutes are in contradiction and that the latter one, having been enacted twelve years later than the earlier one, would effect an implied repeal of the earlier statute. However, since courts do not look with favor upon implied repeals, they will attempt to consider statutes containing the same subject matter, as being in *pari materia*. An excellent case giving full treatment to this phase of statutory construction is: Indianapolis Northern Traction Co. v. Ramer (1905), 37 Ind. App. 264, wherein the Court said:

“The rule of Construction by the aid of statutes *in pari materia* does not restrict the court to the consideration of other legislation enacted on the same day

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or at the same session. The use of the rule, like all other methods of construction, is to ascertain the intention of the legislature by reference to other enactments relating to the same matter or subject to the same person or thing, or to the same class of persons or things. Familiar illustrations are found in the interpretation and construction of progressive statutes relating to the rights of married women, or to the regulation of the liquor traffic. It is not necessary that one statute thus construed by the aid of another statute should expressly refer to the latter. * * *

“If, in comparing statutes, we discover the development of a system, and find therein, in a statute which we are seeking to construe, a modification of or addition to the system, having reference to changed conditions, and the adaptation to the system, so far as such changed conditions are concerned, of methods before applicable alone to another system of preexisting legislation, we may find it reasonable to conclude that the legislature framed such modification or addition with reference to the rules of construction already announced by the courts with regard to such other system, under conditions essentially the same as those contemplated in such modification or addition.”

Applying this decision to the question at hand, it is my opinion that the statute enacted in 1947 which makes provisions for the microfilming of public records is supplemental and in addition to the statute enacted in 1935 and provides not only for the destruction of public records but also another method for the keeping and preserving of such public records.

Although the 1935 Act provides that no records which are less than three (3) years old shall be destroyed, the provisions of the later act place no such time limitation on the keeping of such with the exception of those records in which time for filing legal proceedings thereon has not elapsed. As stated above, rather than construe the later statute as impliedly repealing the earlier one, they will construe them together with the ultimate result being that:

Due to the fact that the preparations and filing of public records have been largely increased and the fact that storage

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space for these records has remained somewhat constant, it is seen that the Legislature, having been made aware of this acute shortage of space, has provided a vehicle by which such records, regardless of age, may be preserved and storage space for these records concomitantly reduced, and that the original records with the above stated exception, can then be destroyed.

It is my opinion, therefore, that the statutes enacted in 1947 (Acts 1947, Chapter 195, Section 1) is clear on its face and that so long as "the time for filing legal proceedings based on such instruments" shall have elapsed any offices of the state, may after securing permission for your office destroy or otherwise dispose of such records that have been microfilmed.

OFFICIAL OPINION NO. 55

September 1, 1950.

Hon. Walter G. Koch, Chairman,
Indiana State Toll Bridge Commission,
Evansville 7, Indiana.

Dear Sir:

I have your letter requesting an opinion concerning the duties and powers of the Indiana State Toll Bridge Commission with reference to the Financial Reorganization Act of 1947.

Your request, insofar as material, reads as follows:

"Under the existing laws, the Indiana State Toll Bridge Commission cooperates with the Indiana State Highway Commission and obtains its approval on the letting of all contracts relating to the construction of interstate bridges.

"The General Assembly of the State of Indiana in 1947 enacted a law known as 'The Financial Reorganization Act of 1947.' This Act was approved on March 13, 1947. The provisions of this Act, under Section 2 thereof, establish a Division of Public Works and Supplies, a Division of the Budget, and a Division of Auditing. Many State agencies by this Act were placed