Mr. Arthur M. Thurston,
Superintendent,
Indiana State Police,
Stout Field,
Indianapolis, Indiana.

Dear Sir:

I have your request for an Official Opinion which reads as follows:

"You are requested to furnish an opinion construing the first two paragraphs of Indiana Acts 1949, page 935, which is a part of Chapter 258, Indiana Acts 1949. The first paragraph on page 935 of said Acts provides in substance that a person who transports a load in excess of the limit declared in the application for registration is subject to the penal provisions of the act, and also to revocation of license, as provided by law. The second paragraph provides for the payment of an additional fee by violators, and they are prohibited from moving the transporting vehicle until said fee is paid."

The paragraphs you mention are as follows:

"The gross weight as so declared by the applicant in the application for registration as provided in this act shall determine and fix the limit of the load, including the unladen weight of the vehicle fully equipped for service, that may be transported by means of such vehicle over the highways of the state for the period for which such registration or license is granted; and the transportation of a load on any vehicle so registered and so licensed in excess of such limit as fixed in the application for registration shall subject the person so violating any of the provisions of this act to the penal provisions provided in this act or to the revocation of the license for such vehicle, or both, as now provided by law."
"Every person so transporting a load in excess of the registered limit of the load for the transporting vehicle shall be required to pay the difference between the fee paid for registration of such vehicle and the fee for the registration of such vehicle plus a maximum load of a weight equal to the excess load being transported. Such fee may be collected by any officer authorized by the department, shall be paid to the department and shall be deposited and accounted for as is other money collected by the department. Until such fee is paid the person transporting such excess load shall not be permitted to move the transporting vehicle." (Our Emphasis).

It is to be noted that Chapter 258 amends Chapter 304 of the Acts of 1945. I find no Section of the 1945 Act as amended that provides a specific penalty for the violation set out in the above quoted paragraphs.

Therefore, Section 74 of Chapter 304 of the Acts of 1945, same being Burns 47-2908, is the only Section which could be applied. That Section reads as follows:

"(a) It shall be a misdemeanor for any person to violate any of the provisions of this act unless such violation is by this act or any other law of this state defined to be a felony.

"(b) Unless another penalty is in this act or by the laws of this state provided, every person convicted of a misdemeanor for the violation of any provisions of this act shall be punished by a fine of not more than five hundred dollars ($500) or by imprisonment for not more than six (6) months, or by both fine and imprisonment.

"(c) Anyone convicted of a violation of this act which is denominated a felony shall be fined not less than five hundred dollars ($500) and not more than five thousand dollars ($5,000), to which may be added imprisonment for a period not to exceed ten (10) years."
1950 O. A. G.

From the words of the statutes, it is clear that operating with the load in excess of the limit as fixed in the application is made criminal. As no specific penalty is provided for that crime, it is clear that the provisions of Burns 47-2908 does apply.

Therefore, it is my opinion that when the State Police apprehend a truck in violation of the Section in question, they have the duty of, first, to impound the truck, and, second, to swear out affidavits for the violation of the act under Section 74.

The State Police department has no duty in regard to the collection of additional fees.

OFFICIAL OPINION NO. 15

March 13, 1950.

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

Dear Sir:

I have your letter requesting an official opinion upon the following questions:

"1. Can the proper officers of a city or town and a township enter into a contract for fire protection pursuant to Chap. 229, Acts of 1927 which would be binding over a period of years stated in the contract; for example, 10, 15 or 20 years;

"2. If your answer to question number one is in the affirmative, is it mandatory that the township advisory board make annual appropriations to pay the city or town whatever annual payment is agreed upon in the contract?"

From the remainder of your letter and from discussions with your office, we understand the underlying facts to be that the City of Greencastle is considering obtaining certain