> gives effect and efficiency to both statutes. Of course, if there is conflict between the two Acts, the last one passed must prevail. * * *"

Chapter 84, Acts of 1949, appears to be a general act providing places for the filing and recording of all official bonds except bonds of state officers.

Chapter 261, Acts of 1949, enacted later in the same session, conflicts with Chapter 84 by providing that each Commissioner of the Department of Off-Street Parking shall file his bond with the City Controller rather than with the Recorder of the County. Chapter 261, Acts of 1949, applies only to cities of the first class. Since Chapter 261 was enacted at a later time than Chapter 84, the latter enactment will stand as an exception of the general provision. As a matter of record, however, it would be advisable to file a copy of such bond for record in the County Recorder's Office.

WOL:vb

OFFICIAL OPINION NO. 38

May 9, 1949.

Harold F. Brigham, Director,
Indiana State Library,
140 N. Senate Avenue,
Indianapolis, Indiana.

Dear Mr. Brigham:

Your letter of April 7, 1949 has been received requesting an official opinion on the following question:

> "Is the status of the State Library changed in its relationship to the State Personnel Board by the effect of Chapter 235, Acts 1949, which amends Chapter 139, Acts 1941 (the State Personnel Act) ?"

Your letter also included the following statement of the history of these statutes:

> "The status in question was established by an official opinion of the Attorney General June 22, 1942 which

> ruled "that the Library Certification Board Act supersedes, so far as the State Library is concerned, the provisions in the State Personnel Act putting the State Library under the control of the state merit system but only with respect to professional library service." By this ruling the *professional* employees of the State Library have been subject to the Library Certification Act, (Chapter 195, Acts 1941) but not to the State Personnel Act. This status was incorporated into the State Library Law by Chapter 327, Acts 1947, which amends Chapter 58, Acts 1925 (the State Library Act).
>
> The point at issue appears to be whether the reenactment of the unamended portion of the original State Personnel Act of 1941, in which the name of the Indiana Library and Historical Department appears, nullifies the 1942 opinion of the Attorney General and invalidates the 1947 amendments to the State Library Law."

Under Act 2 of the State Personnel Act, prior to its amendment in 1949, under clause (a), the words "State Service" was defined to include "Indiana Library and Historical Department" (Section 60-1302 Burns 1943 Replacement, same being Section 2, Chapter 139, Acts 1941).

The above section of the State Personnel Act was amended by Section 1, Chapter 235, Acts of 1949, and in defining said "State Service" the language of the old statute is identical with that incorporated in the new statute, at least as far as involves your department, and the changes consisted of the addition of certain other State Departments within the meaning of said term, most of said State Departments being departments created since the enactment of the old law.

The opinion of the Attorney General of Indiana referred to in your leter, same being 1942 Indiana O. A. G., page 140, at 148, hold:

> "Summing up, it is my opinion in answer to your first question that the Library Certification Board Act supersedes, so far as the State Library is concerned, the provisions in the State Personnel Act putting the State Library under the control of the State merit

system but only with respect to professional library service.

"Your second question is answered in the affirmative and certificate holders under the Library Certification Board are entitled to appointment without taking examinations prescribed by the State Personnel Board, whether they are present incumbents of positions in the State Library or whether they have yet to secure certificates for library service."

The foregoing official opinion has been strengthened by the amendment to the Library Act made by Section 8, Chapter 327 of the Acts of 1947, same being Section 63-824 Burns 1947 Replacement, which provides in part as follows:

"* * * The assistants in the library shall be appointed by the director of the library, with the approval and consent of the library and historical board; the assistants in the historical bureau shall be appointed by the director of the historical bureau, with the approval and consent of the board. In making such appointments, recognition shall be given to the fact that *all certified librarians are under the Library Certification Act and that other staff personnel are under the State Personnel Act.* * * *" (Our emphasis).

It has been decided that the mere reenactment of a statute does not repeal or effect the intermediate statutes dealing with the same subject matter. In the case of Thompson v. Mossburg (1923), 193 Indiana 566, at page 574, the Court said:

"The recital in this manner, in an amendatory act, of language contained in the act amended, does not show a legislative intent to make any change in the law as expressed by the language so re-enacted; but the unchanged portions of the statute are continued in force, with the same meaning and same effect after the amendment that they had before.

Worth v. Wheatley (1915), 183 Ind. 598, 604, 108 N. E. 958;

State v. Kates (1897), 149 Ind. 46, 48, 48 N. E. 365;

Holle v. Drudge (1920), 190 Ind. 520, 129 N. E. 229, 230.

"So far as the section is changed (by amendment) it must receive a new operation, but so far as it is not changed it would be dangerous to hold that the mere nominal re-enactment should have the effect of disturbing the whole body of statutes *in pari materia* which had been passed since the first enactment * * *. The portions of the amended sections which are merely copied without change are not to be considered as repealed and again enacted, but to have been the law all along." Sutherland, Statutory Construction (2d ed.) § 133. "By observing the constitutional form of amending a section of a statute the legislature does not express an intention then to enact the whole section as amended, but only an intention than to enact the change which is indicated. Any other rule of construction would surely introduce unexpected results and work great inconvenience."

McLaughlin v. Newark (1894), 57 N. J. Law 298, 301, 30 Atl. 543, 544.

A like statement of the law, supporting the rule cited authority, is found in the case of Huff v. Petch (1924), 194 Indiana 570, 577.

I am therefore of the opinion that under the foregoing authorities the enactment of Chapter 235 of the Acts of 1949, (the State Personnel Act) has not affected in any way the status of the Indiana State Library as far as the professional employees of the State Library are concerned and that the status of such method of examination and selecting said profesional employees remain the same as outlined in the previous opinion of the Attorney General found in 1942 O. A. G. page 140.

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