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By the same token I would not believe such force and validity could be given the 1925 act as to read into the new amendment a provision postponing its taking effect, and the effective date of its actual operation, to a time in the future, contrary to the provision contained in the emergency clause of the new statute.

I am therefore, of the opinion the salaries provided by Chapter 241 of the Acts of 1949 shall be paid on and after April 1, 1949.

OFFICIAL OPINION NO. 41

May 12, 1949.

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

Dear Sir:

Your letter of April 19, 1949 has been received requesting an official opinion construing Chapter 251, being House Enrolled Act No. 193 of the Acts of the General Assembly for 1949 and Chapter 236, being Senate Enrolled Act No. 56 of the Acts of the General Assembly for 1949. Each of these statutes provide increases of salaries of certain officials. The former statute concerns the salaries of city officials in cities having a population of 50,000 to 250,000 while the latter statute concerns the fixing of salaries of certain county officers in counties having a population of from 200,000 to 300,000.

Chapter 251, supra, Section 2, provides as follows:

"Whereas an emergency exists for the taking effect of this act, the same shall be in full force and effect from and after May 1, 1949."

Section 2 of Chapter 236, supra, provides as follows:

"Whereas an emergency exists for the taking effect of this act, the same shall be in full force and effect on and after March 15, 1949."
In your letter you specifically call attention to the effect, if any, that may be given to Article 15, Section 2 of the Constitution of Indiana and to Section 49-1103, Burns' 1933, which in terms prohibit an increase in salary for such officers. Your attention is called to Official Opinions numbered 22 and 40 of this office for 1949 which fully consider and determine that neither of said prohibitions are operative on the construction of a statute such as herein involved. Said opinions point out that the constitutional provision has been held invalid by a recent Supreme Court decision therein reviewed; the other statutory section was by said opinions held to be impliedly superseded, to the extent of any conflict, by the later salary statutes which show a legislative intent that the statutes should be in operation and effect under the emergency clauses contained in the later amendatory Acts.

Chapter 251, Section 1, amends Chapter 372, Section 1, Acts 1947, which in turn amended Section 12, Chapter 233 of the Acts of 1933, same being Section 48-1224 Burns' 1933. Section 21 of Chapter 233 of the Acts of 1933 has been amended a number of times including its final amendment by Section 1, Chapter 324, Acts 1947, same being Section 48-1233, Burns' 1947 Supplement, which in part provides as follows:

"The common council of each and every city shall, by ordinance duly enacted on or before the first day of April of the year in which elections for the election of city officers are held, fix the annual salaries of all officers provided for in this act, and such salaries when so fixed shall not be changed by the common council during their respective terms of office. * * *"

It is likewise to be noted that Section 1, Chapter 236 of the Acts of 1949, amends Section 1, Chapter 212 of the Acts of 1943, same being Section 49-1022 Burns' 1947 Supplement, the only change being an increase in salary in the office of county commissioner, the salary of all others remaining the same. Section 5 of Chapter 212, Acts 1943, same being Section 49-1026 Burns' 1947 Supplement, provides as follows:

"The provisions of this act, in so far as they apply to the officials herein named, shall become operative and shall be in full force and effect on and after the date of the expiration of the term of office for which
such officials are now serving office and/or heretofore have been duly elected."

The foregoing limitations contained in each of the later sections of the old statutes are referred to in order to obviate any question that the limitations therein provided are in any way a limitation upon the effectiveness of the increase in salary provided by the two new Acts under consideration.

The law is well settled that where the amendatory act, under the emergency clause, clearly indicates a legislative intent that such act become effective at a certain time, such as specified in the 1949 Acts, supra, that such legislative intent impliedly repeals any prior statutes in conflict therewith. (See Official Opinions numbered 22 and 40 of this office for 1949, supra.)

It is also well recognized that where an amendatory act on its face purports to amend a particular section of the old law, it will, by implication supersede or repeal to the extent of any conflict, any other sections of said old statute in irreconcilable conflict with the new act.

State v. Gleason (1946), 224 Ind. 142, 145 and cases cited.

From the foregoing I am of the opinion that from the clear intent evidenced by the Legislature in the enactment of each of the statutes in question, any provisions in any sections of the statutes which they seek to amend, which are in conflict with the new Acts, are by implication superseded and repealed to that extent, and that the salary provisions of each of said Acts, Chapter 251 and Chapter 236 of the Acts of 1949, are effective on the dates as set out in the emergency clauses of each of said Acts.

TLW:FEC:vb