and where this is true, the older statute will be treated as amended or repealed by implication only as to the extent of the repugnancy (Crawford on Statutory Construction, page 632; Kramer v. Beeler, 186 Ind. 349.) Each of the two Acts have provisos and the repugnancy existing here relates only to the provisos; inasmuch as House Enrolled Act 396, so far as the surveyor of Lake County is concerned, re-enacts the provisions of House Enrolled Act No. 75, except as to the proviso regarding the fact that the surveyor is a licensed civil engineer, the inconsistency of the two Acts is narrowed. Taking all factors in consideration, I am of the opinion that House Enrolled Act 396 is special in its nature and the latest expression of the legislative intent on the subject of the salary of Lake County surveyor and that whatever repugnancy exists between the Acts, that the proviso of House Enrolled Act 396 will prevail and that the proviso of House Enrolled Act 75 is to be deemed amended so far only as it relates to the rule regarding a licensed civil engineer and that his salary should be fixed at $9600.

It is further my opinion that both of the provisos in the House Enrolled Act 75, referred to in subdivision on (b), which would permit the County Council to make an additional allowance, not exceeding $1500, does not apply to the surveyor of Lake County.

CHJ:aa

OFFICIAL OPINION NO. 20
April 13, 1949.

Brig. Gen. Robinson Hitchcock,
The Adjutant General,
State Capitol Building,
Indianapolis, Indiana.

Dear Sir:

I am in receipt of your request under date of March 28, 1949 for an official opinion regarding the following query, to wit:

"Is there a distinction between the operation of this office as an agency of the State and the operation of the armories under the State Armory Board?"

Section 1, Chapter 135 of the Acts of 1945 provides:

"There shall be appointed within the State of Indiana
an Armory Board of the State of Indiana to consist of the Governor, the Adjutant General and five (5) persons to be appointed by the Governor * * *, whose duty it shall be to provide, manage and care for armories for the use of the military and naval forces of Indiana.”

Section 1 (b), Chapter 279, Acts of 1947 and known and cited as the “Financial Reorganization Act of 1947” is as follows:

“(b) The provisions of this Act shall apply to all agencies of the State. As used in this Act the term ‘agencies of the State’, ‘agency’, or ‘agencies’ shall mean and include every officer, board, commission, department, division, bureau, committee, employee and other instrumentality of the state including without limiting the effect of the foregoing, state hospitals, state penal institutions and other state institution enterprises and activities wherever located; but excepting, unless specifically included, military officers and military and armory boards of the state and the State Fair Board, state supreme and appellate courts and state colleges and universities supported in whole or in part by state funds and persons and institutions under their control and excepting all counties, cities, towns, townships, school towns, townships and cities and other municipal corporations or political subdivisions of the state.”

We do not deem it necessary in so far as your question is concerned to set out the entire text of this act. It is obvious from the section cited the State Armory Board is excepted from the provisions of the “Financial Reorganization Act of 1947.”

The answer to your query as to whether your office is an agency of the state as that term is used in Section 1 (b) of the Financial Reorganization Act of 1947 (supra) is in the negative. (Underscore ours.)

“Hereafter no person shall be appointed adjutant-general unless he has received a regular military education, or has had experience as a military officer sufficient to qualify him for the position. * * * Acts of
1923, Chapter 142, Section 25-45-602, Burns Indiana Statutes, 1933, 1940 Replacement."

"* * * Should the adjutant-general fail or refuse to properly and efficiently perform the duties of his office or be guilty of misconduct or conduct prejudicial to good order and military discipline. * * * Acts of 1923, Chapter 142, Section 25-45-604, Burns Indiana Statutes, 1933, 1940 Replacement."

From the above citations, it may be presumed that the adjutant-general is a military officer, and if such be true his office is excepted from the Financial Reorganization Act of 1947 (supra).

Further, we have interpreted the words "operation of the office" as used in your question to mean the place from which you transact state business and if this construction is proper we do not believe the Legislature intended to divorce your trust from the provisions of the Financial Reorganization Act of 1947 (supra) in so far as it has to do with public matters and the spending of public funds. The act is very definite and specific in excepting military officers and armory boards but includes every officer, board, commission, department, division, bureau, committee, employee and other instrumentalities of the state and although we are without precedent we are of the opinion that wherein your office is concerned with public matters and the spending of public funds that the same should be done according to the provisions of the Financial Reorganization Act of 1947 (supra).

JAW: mfl

OFFICIAL OPINION NO. 21

May 3, 1949.

Mr. Lytle J. Freehafer,
Director of the Budget,
State of Indiana,
Indianapolis, Indiana.

Dear Mr. Freehafer:

Your letter of April 18, 1949 has been received and reads as follows: