

OFFICIAL OPINION NO. 21

May 7, 1947.

Mrs. Fern E. Norris, Reporter,
Supreme and Appellate Courts,
State House,
Indianapolis, Indiana.

Dear Mrs. Norris:

I have your letter of April 28th in which you state that a large number of plates, from which the court reports are printed, are stored in a warehouse and in various places and that the same could be sold at this time at a very high price. You ask if you have the authority to certify said plates to the Auditor of State for sale.

Section 4 of Chapter 170 of the Acts of 1891 (Burns' 49-2005) as amended in 1915 provides that plates shall be preserved by the Secretary of State for the publication of future editions as they may be needed.

Chapter 37 of the Acts of 1943 (Burns' 49-2008, 1945 Supp.) transfers all of the duties theretofore performed by the Secretary of State in connection with the printing, publication, sale and distribution of the reports of the Supreme and Appellate Courts to the Reporter of the Supreme Court. Said section provides in part as follows:

“* * * Said reporter shall carefully preserve unbound sheetstock, plates, mats and any and all other materials necessary for the reprinting of said reports: Provided, however, That any plates, mats or other material not necessary and useful for the purpose of reprinting any of the reports of either the Supreme or Appellate Court, may be sold by the reporter with the permission of a majority of members of the respective courts. Any moneys received from the sale of such plates, mats or other material shall be paid into the general fund of the state of Indiana.”

The general statute relative to the sale of obsolete and unneeded personal property of the state is Chapter 156 of the Acts of 1941 (Burns' 49-1723, 1945 Supp.) and provides as follows:

“From and after the passage of this act, whenever any officer, board, commission, department, institution or agency of the state shall have in his or its charge any tangible property, other than real estate, and including equipment, materials and supplies, which because of obsolescence or for any other cause, has ceased to be needed for use by any such officer, board, commission, department, institution or other agency of the state government, such officer and the head of each of such boards, commissions, departments, institutions and agencies shall make report of such fact to the auditor of state: Provided, however, That state institutions which operate farms, shops, or industries for the purpose of raising live stock or grain or manufacturing material, supplies or other articles for sale may sell the same on the open market or as now permitted.”

It is to be noted that the above section is general and applies to all equipment, materials and supplies not needed by any officer, department or agency of the state, while the 1932 Act is a special act applying specifically to the sheet-stock, plates, mats and material used in printing and re-printing reports of the Supreme and Appellate Courts. It is a rule of statutory construction that general statutes must give way to special statutes upon the same subject.

Daily et al. v. Carr et al. (1934), 206 Ind. 554;
Kingan and Co., Ltd. v. Ossam (1920), 190 Ind.
 554.

This principle has been applied by the Attorney General in Official Opinion No. 108, Opinions of the Attorney General 1944, page 461, in a construction of a statute relating to sales of confiscated property generally and the statute relating to contraband property used in the violation of the Alcoholic Beverage Law.

It is, therefore, my opinion that Chapter 37 of the Acts of 1943, applying specifically to material used in printing reports of the Supreme and Appellate Courts, controls and that where proper determination is made that the plates are not necessary and useful for reprinting any of the re-

ports of the Supreme or Appellate Courts they may be sold by you with the permission of a majority of the members of the respective courts.

I call your attention to the fact that Chapter 279 of the Acts of 1947 places the jurisdiction and power of selling materials or equipment which are surplus, obsolete or unused in the Director of Public Works and Supplies. See Section 5, Clause 8, and Section 12 of said act. Said act, however, in respect to said sections does not go into force and effect until midnight of the 30th day of June 1947.

OFFICIAL OPINION NO. 22

May 7, 1947.

Brigadier General Howard H. Maxwell,
Adjutant General of State of Indiana,
212 State House,
Indianapolis, Indiana.

Dear Sir:

I have your letter as follows:

"1. During the existence of the Indiana State Guard, several of the units have accumulated a fund intended to be used in furtherance of the instruction, entertainment and welfare of the members of the unit, also to purchase equipment for use of the unit. These funds have been acquired from the following sources:

"a. Proceeds from canteens, entertainments, shows, etc., earned by the collective efforts of the members of the unit.

"b. Contributions from local armory funds by the local armory board.

"2. Several of the State Guard units are now being deactivated and the question has arisen as to what disposition should be made of the balance of mentioned funds now in the hands of the units, as well as