

to the passage of such laws, unless grossly abused, cannot be inquired into by the courts.

Groves v. Board of Commissioners (1935), 209 Ind. 371, 376, 377.

The General Assembly for the year 1943, passed an Act, Chapter 212, Acts of 1943, providing for an increase in the salaries of county commissioners in counties falling within a population range of 200,000 to 300,000. This would be an adequate, valid reason for the legislature for omitting such a population range in Section 1A of Chapter 238, Acts of 1945.

Accordingly, since Section 1A, Chapter 238, Acts of 1945, does not provide a per diem allowance for county commissioners in counties falling within a population range of 200,000 to 300,000, they are not entitled to receive any under said Act.

OFFICIAL OPINION NO. 41

May 16, 1945.

Hon. Otto K. Jensen, State Examiner,
Department of Inspection and
Supervision of Public Offices,
State House,
Indianapolis, Indiana.

Dear Sir:

Your letter of April 2nd requests an official opinion on the following questions:

"1. Are both Chapter 251, Acts of 1945, and Chapter 311, Acts of 1945, in full force and effect in so far as they concern expense allowances to township trustees and the employment and payment of clerical assistance by townships?

"2. If your answer to question No. 1 is in the negative, which act controls?

"3. Should any payment made for the trustees expense allowance or for clerical assistance under the authority of either said Chapter 251 or said Chapter

311, be made in accordance with the classification of townships as made by the act of 1917 or of the act of 1945?

"4. Are the township trustees and their clerical assistants entitled to receive the benefits of Chapters 251 and/or 311 for the entire year 1945, or only from and after the effective date of these acts?"

Chapter 251 establishes a complete reclassification of all townships in the state, and establishes a salary and office rent schedule for all township trustees effective January 1, 1947. It provides that the trustee shall receive no compensation other than therein provided; it authorizes him to appoint necessary deputies and assistants, and authorizes the township advisory board to appropriate the sums not in excess of certain limits which are graded as to classification for clerical assistance and for telephone, telegraph and travel expense.

The material parts of Chapter 251, so far as they affect this opinion, follow:

"Section 14. * * * In all townships of the state the township advisory board shall annually appropriate for the employment of clerical assistance the amount of the estimate of the township trustee; Provided, That the amount so appropriated and allowed for clerical assistance shall not exceed, * * *;" (then follows maximum amounts for each classification) "Provided, That the amounts provided herein for assistants shall be in addition to any supervisors, investigators and other assistants authorized by Chapter 208, Acts of 1937. In all townships in the state, the township advisory board shall annually appropriate the amount of the estimate of the township trustee for the rent of an office for the trustee; Provided, That the amount so appropriated and allowed for office rent shall not exceed, * * *." (Then follows maximum amounts for each classification.) "In all townships of the state the township advisory board shall annually appropriate the amount of the estimate of the township trustee for travel allowance, telephone tolls and telegrams; Provided, That the amount so

appropriated and allowed for travel allowance, telephone tolls and telegrams, shall not exceed, * * *.”
(Then follows maximum amounts for each classification.)

“Section 15. The allowance provided herein for assistants for the several officers shall include all deputies, clerks, stenographers or assistants of whatsoever character, except supervisors, investigators and other assistants as authorized by Chapter 208, Acts of 1937.

“Section 16. That Chapter 159, Acts of 1917, and all laws and parts of laws in conflict herewith be and the same are hereby repealed; Provided, however, That until January 1, 1947, the salary of township trustees and office rent allowance shall be as now provided by Chapter 159, Acts of 1917.

“Section 17. Whereas an emergency exists for the immediate taking effect of this act, the same shall be in full force and effect from and after its passage; Provided, however, That nothing herein contained shall affect the salary and office rent allowance as now provided by Chapter 159, Acts of 1917, prior to January 1, 1947; and Provided, further, That the advisory boards be and they are authorized to meet immediately and make appropriations for clerical assistance, and travel allowance, telephone tolls and telegrams.”

Chapter 311 establishes a *per diem* for all township trustees graded as to the township classifications. It further authorizes the township advisory board to appropriate sums for clerical assistance not to exceed certain limits graded according to classification, such limits being identical with those set out in Chapter 251. The material parts of the Act follow:

“Section 1. * * * that in all townships in the state the township advisory board may annually appropriate the amount of the estimate of the township trustee for per diem expense of such officer in addition to all other allowances for expense under existing laws; Provided, however, that the amount so appropriated and allowed for per diem expense shall not exceed,

* * *.” (Then follows maximum amounts for each classification.)

“Section 2. In all townships, the township advisory board may annually appropriate for the employment of clerical assistance the amount of the estimate of the township trustee: Provided, That the amount so appropriated and allowed for clerical assistants shall not exceed, * * *.” (Then follows maximum appropriations for each classification.)

“Section 3. That the provisions of this act are to be supplemental to all existing laws and parts of laws and to all laws and parts of laws to be hereinafter enacted which laws or parts of laws fix and provide compensation to be paid to township officials.

“Section 4. Whereas an emergency exists for the immediate taking effect of this act, the same shall be in full force and effect from and after its passage.

“Section 5. This act shall expire by limitation at midnight, December 31, 1946.”

1-2. When two Acts are passed at the same session of the General Assembly, both relating to the same subject-matter, and both approved by the Governor on the same day and take effect at the same time, both will be given effect if it is possible to reconcile them on a reasonable basis.

City of New Albany v. Lemon (1926), 198 Ind. 127, 149 N. E. 350, 152 N. E. 723.

Chapter 311 of Section 3 declared it was the intention of the legislature that this Act should be supplemental to existing laws and to laws to be hereinafter enacted. A supplemental Act is one which “adds to, or completes, or extends.”

Lost Creek School Township v. York (1939), 215 Ind. 636, 641.

Repeals by implication are not favored and it is especially true of Acts passed at the same session of the General As-

sembly that if they can by any rule of statutory construction be construed in harmony, such construction will be adopted.

State, *ex rel.* v. Internat'l Harvester Co. (1940),
216 Ind. 463, 467.

The rule stated in the above case is:

“* * * There is no inference that one act was intended to destroy another if they are on the same subject-matter and enacted at the same meeting of the Legislature, but, on the contrary, they should be construed, if possible, to give full effect to each. The purpose of all rules of statutory construction is to ascertain the legislative intent. * * *”

The provisions of Chapter 311 providing for an expense allowance on a per diem basis are not in irreconcilable conflict with Chapter 251, and for that reason I am of the opinion that the township advisory boards may appropriate for such expense allowance on a per diem basis, not to exceed the maximums allowed for the particular classifications.

3. The provisions of Chapter 311 concerning clerical assistance are not as specific as the similar provisions of Chapter 251. The general rule is that specific provisions of a statute govern over general provisions with reference to the same subject matter.

Straus Bros. Co. v. Fisher (1928), 200 Ind.
307, 163 N. E. 225;

Stevens v. Marion Machine, Foundry & Supply
Co. (1921), 77 Ind. App. 28, 133 N. E. 23.

When an Act is supplemental to another Act or laws, it will be construed as not being inconsistent therewith if such construction is possible.

State, *ex rel.* Robertson v. Circuit Court of Lake
County (1938), 215 Ind. 18, 17 N. E. (2d)
805.

To hold that the provisions of both Acts are in force as to clerical assistance would be to reach an absurd result, and one

which the legislature is not presumed to have intended. Such a construction will be avoided.

Jeffersonville v. Weems (1854), 5 Ind. 547;
 Brownlee v. City of Princeton (1926), 198 Ind.
 148, 152 N. E. 828;
 Marks v. State (1942), 220 Ind. 9, 40 N. E. (2d)
 108;
 Groher v. Colgate-Palmolive-Peet Co. (1932),
 94 Ind. App. 234, 178 N. E. 242;
 American Foundry Co. v. Chicago, I. & L. Ry.
 Co. (1934), 100 Ind. App. 111, 178 N. E. 295.

Consequently, I am of the opinion that the provisions of Chapter 251 concerning clerical assistance are in force, and that both Acts, when construed together, do not provide for a double allowance for such assistance.

Chapter 251 provides for classification of all of the townships in the state. Since the Act contains an emergency clause, as above set out, and has mandatory provisions for the appropriation for clerical assistance, it is my opinion in answer to your third question, that such expenses should be allowed and paid under the provisions of this Act.

4. There is nothing in either Chapter 251 or Chapter 311 to indicate that either is to be given a retroactive effect. Unless the language of the statute clearly indicates such an intention, the legislature is presumed to have intended the Act to have a prospective operation.

Henderson v. State (1884), 96 Ind. 437, 442,
 443;
 Chadwick v. City of Crawfordsville (1940), 216
 Ind. 399;
 State, *ex rel.* Fowler v. Eggers (1910), 33 Nev.
 535, 112 Pac. 699;
 46 C. J. 1019;
 1945 Ind. O. A. G. p. 145 No. 30.

Therefore, it is my opinion that the provisions of said Acts now in force concerning additional allowances for expenses do not apply to the entire calendar year of 1945, but should be pro rated from the effective date of the Act to the end of this year.