

necessary expenses in carrying out the provisions of said Acts. On this question as to the Indiana Feeding Stuffs Control Law see Section 16-1005 Burns' 1933; as to the Indiana Fertilizer Control Law see Section 15-1005 Burns' 1933; and as to the Indiana Seed Control Law see Section 15-813 Burns' 1933.

Under each of said statutes the administrating officers charged with the enforcement thereof are given powers to carry out the intents and purposes of said Acts. Said Acts are silent as to whether or not postage shall be prepaid by the state administrative officer, or shall be charged in addition to the prescribed purchase price for the tags or labels.

However, we are not without the benefit of other statutory authority on the question.

Chapter 186 of the Acts of the General Assembly of 1945, being the Biennial Appropriation Act, due to an emergency clause became effective when signed by the Governor on March 7, 1945. Section 1 of said Act provides in part as follows:

"The term 'all other operating expenses' wherever used in this Act shall be construed to include all payments made for * * * postage * * *."

I am therefore of the opinion the administrative officers of the state charged with the enforcement and payment of the expenses incurred in the operation of said Acts may determine for themselves as a matter of administrative policy whether or not such postage shall be prepaid by the state, or whether such postage shall be collected in addition to the purchase price received for the tags or labels.

OFFICIAL OPINION NO. 64

July 13, 1945.

Hon. Milton Matter, Director,
Indiana Department of Conservation,
Indianapolis 9, Indiana.

Dear Sir:

I acknowledge receipt of your letter of June 5, 1945, as follows:

"I would appreciate your official opinion on the following question:

"Should the Indiana Department of Conservation follow the provisions of Chapter 106 of the Acts of 1945 in renting, leasing, or licensing public service privileges and facilities in state parks, or have the provisions of this Act been repealed by Chapter 353 of the Acts of 1945?"

Chapter 106 of the Acts of 1945, approved March 2, 1945, grants to the Department of Conservation the power to, among other things.

"* * * construct, rent, lease, license or operate public service privileges and facilities in any state park or parks; * * *. No agreement shall be made to rent, lease or license any public service privileges or facilities in any state park or parks for a longer period than four years. All agreements for the renting, leasing or licensing of such public service privileges or facilities shall be made with the highest and best bidder or bidders after notice has been given for at least ten days in a newspaper of general circulation published and printed in the English language in the county or counties where the particular public park is located notifying the public and all prospective bidders in detail of the character and extent of the public service privileges and facilities that will be let and the time and place when bids for the furnishing thereof will be received."

Thereafter Chapter 353 of the Acts of 1945, approved March 10, 1945, abolished the Department of Conservation in Section 1; created the Indiana Department of Conservation in Section 2, and then in Section 5 provided:

"All the jurisdiction, authorities, rights, powers, property, duties, responsibilities, causes of action or defense now vested in, or required of, 'The Department of Conservation,' or its director, or the conservation commission, or its director, as created by Chapter 60 of the Acts of 1919 of the General Assembly or Acts amendatory or supplemental thereto, or by any other

law, *excepting only as may be in conflict with this Act*, are hereby continued in full force and effect, and transferred to, vested in, and imposed upon the Indiana Department of Conservation and its Director, respectively, as hereby created. * * *.”

If the Legislature had stopped there, there would be little doubt but that the power granted in Section 1 of Chapter 106 to the Department of Conservation was transferred to the Indiana Department of Conservation with the limitation specified in Chapter 106. If it was the intent of the Legislature to so transfer such powers subject to such limitations no further provision would be necessary in Chapter 353. However, in Section 12 of Chapter 353 the Legislature proceeded to grant the new commission the same powers as set forth in Chapter 106, in identical terms, “To construct, rent, lease, license or operate public service privileges and facilities in any state park or parks; * * *”, but omitting the limitation on the term of the grant and the requirement of public bidding. Therefore, if the legislature intended by Section 5 of Chapter 353 to clothe the commission with the powers granted in Section 1 of Chapter 106 to the old commission, then this provision of Section 12 of Chapter 353 is surplusage. But effect must be given, if possible, to all provisions and none of the provisions will ordinarily be regarded as surplusage.

State, *ex rel.* v. Board (1937), 211 Ind. 643, 646;
McQuaid v. State, *ex rel.* (1937), 211 Ind. 595,
600.

In the quotation from Chapter 353, above set forth, the Legislature excepts from the powers transferred from the Department of Conservation to the Indiana Department of Conservation those that may be in conflict with other provisions of Chapter 353. Since the interpretation of Section 5 so as to transfer the powers granted by Chapter 106 would conflict with the provisions of Section 12 of Chapter 353, as herein shown, such powers granted by Chapter 106 to the former department fall within the statutory exceptions and are not transferred.

Another matter that indicates that the Legislature did not understand that the provisions of Section 5 of Chapter 353

clothed the commission with the powers granted in Section 1 of Chapter 106 is the fact that the grant of authority in Section 12 is specifically described as being "In addition to the other powers and authority granted to the Indiana Department of Conservation. * * *", including, of course, the powers transferred by Section 5, so that if the powers granted to the old commission by Chapter 106 were transferred to the new commission by Section 5, then the same power granted in Section 12 would not be "in addition to" such power.

Section 5 is a general section as to all powers of the old commission, while Section 12 refers to certain specific powers. It is a well settled rule of statutory construction that the specific mention of a matter in one part of an act will control over general provisions contained in another part of the act.

Peoples T. & S. Bank v. Hennessey (1938), 106
Ind. App. 257, 275;
State v. Shanks (1912), 178 Ind. 330, 335.

I am, therefore, of the opinion that in Section 5 of Chapter 353 the Legislature did not intend to, or contemplate, that it was transferring to the new commission this power granted in Chapter 106 to the old commission but, on the contrary, granted such power directly to the new commission. In so granting such power directly it omitted all limitations upon it. Consequently, the Indiana Department of Conservation is not required to comply with the limitations and procedures established in Chapter 106.

OFFICIAL OPINION NO. 65

July 17, 1945.

Hon. Clarence E. Ruston, State Examiner,
State Board of Accounts,
State House,
Indianapolis, Indiana.

Dear Sir:

I have a letter dated June 5, 1945, from your predecessor in office asking an official opinion upon the following question: