purpose is to ascertain the intent of the Legislature. Where a clear intent can be collected from the statute as a whole, it will prevail even over the strict letter where that would lead to injustice, contradiction, or absurdity.

Peoples Trust and Savings Bank v. Hennessey (1926), 106 Ind. App. 257.

I am further of the opinion that any such discrimination would be a violation of the Equal Protection Clause of the State and Federal Constitutions and that we may therefore apply the rule that the Legislature did not intend to enact an unconstitutional provision.

County Department v. Potthoff (1942), 220 Ind. 574.

I am therefore of the opinion that where a veteran of the armed forces after his return establishes a right to unemployment compensation benefits based solely on wages earned after his return from service and independently of provisions of Section 7 (i), he is not subject to the disqualification set forth in clause 5 of that subsection, but on the contrary would be governed in this respect by the provision of Section 7 (f) 6. In other words, after thus establishing his right to unemployment compensation on a par with non-veterans the veteran is subject to no greater disqualifications than the non-veteran.

OFFICIAL OPINION NO. 122

November 26, 1945.

Hon. Clarence E. Ruston,
State Examiner,
State Board of Accounts,
Room 304, State House,
Indianapolis, Indiana

Dear Sir:

I have before me your letter of November 9th, in which you ask my official opinion upon the following questions:

"1. Is the sheriff of a county having a population of three hundred thousand or more, according to the last preceding United States census, entitled to collect and retain as his own separate property the fees accruing on writs and processes issued by any court or proper officer thereof, of any county other than the county in which such sheriff holds office:

(a) Prior to the effective date of Chapter 170, Acts of 1945?

(b) Subsequent to the effective date of Chapter 179, Acts of 1945?

"2. Is the sheriff of a county having a population of three hundred thousand or more, according to the last preceding United States census, entitled to collect and retain as his own separate property the sheriff's fees accruing on any writ or process issued by the court or proper officer thereof, of the county in which the sheriff holds office in any cause venued to such county, under the provisions of Chapter 179, Acts of 1945?"

Section 2 of Chapter 234 of the Acts of 1941 (page 923) provides as follows:

"The compensation provided in Section 1 of this act shall be in lieu of all salaries, fees, and per diem now provided by statute for the officials, therein designated. All fees, penalties, emoluments, interest, costs, expenses, fines, forfeitures, commissions and/or remuneration of whatsoever kind or character, for official services or involving official authority, now provided by statute or otherwise, shall be charged and collected by such officers and shall be the property of the county and shall be paid into the general fund of the county."

Section 8 of Chapter 21 of the Acts of 1933, as amended by Section 1 of Chapter 36, page 111 of the Acts of 1941 (Sec. 49-1008, Burns' Supplement), was part of an act concerning salaries and compensation of county officials in general and provides in part that:

> "* * * The sheriffs' fees accruing on process issued by courts outside of the county shall be the property of the respective sheriffs. * * *"

Chapter 247 of the 1945 Acts amended Section 2 of Chapter 234 of the Acts of 1941, and among other things added the following clause:

> "* * * This Act shall be deemed supplemental to and shall not be construed to repeal or effect the interpretation of any other act of the Eighty-fourth General Assembly."

Chapter 179 of the Acts of 1945 provides in Section 1 as follows:

> "That each sheriff of this state serving any writ, process or other papers issued by any court or officer thereof, of any county of this state other than the county in which he holds office, or issued by the court or proper officer thereof of the county of the sheriff in a cause which was venued to the county in which said sheriff holds office, shall tax and charge the fees and costs allowed by law for such service, which fees and costs, when collected, shall be retained by each sheriff as compensation for such services."

Section 2, 3, 4 and 5 of this Act make specific and detailed provisions for the collection of such fees by the sheriffs.

Similar acts have been under consideration by the courts on several occasions. In Seiler v. State (1902), 160 Ind. 605, the court had under consideration two acts of the 1895 General Assembly. The first of these amended Section 114 of the Tax Law in regard to the county board of review by providing a per diem of $3.00 per day for each of the members of the board of review, including the county auditor. The second act under consideration was the Fee and Salary Law of 1895 which provided a salary for the county auditor among others and contained the following pertinent provisions:

> "* * * 'The county officers named herein shall be entitled to receive for their services, the compensa-

tion specified in this act, * * * and they shall receive no other compensation whatever.'

"* * * 'Where the auditor is required by law to perform any service not specially mentioned in this act, for which services the auditor shall be entitled under the law existing before the taking effect of this act, to tax, charge or receive any fee or compensation in his own favor for such service, he shall hereafter tax the amount on account of such service in favor of the county, and the same shall be collected and paid into the county treasury as elsewhere provided in this act.' "

The act further required the county auditor to make a quarterly sworn report of fees collected and to pay the same to the treasurer. The court held that repeals or modifications of statutes by implication are not favored and if upon any reasonable ground the provisions of these two statutes could be reconciled so as to allow both to stand the court should accept that construction. The court further applied the rule that where two statutes are passed at the same session of the Legislature they must be construed together and, if possible, each ought to be permitted to stand. The court held that the Legislature could not be presumed to have withdrawn by one act what it had granted with another in the same session of the Legislature.

In Clark v. Board (1922), 78 Ind. App. 309, 312, the court had a similar situation under consideration and distinguished that case upon the ground that it did not involve acts passed at the same session of the Legislature.

The Seiler case was similarly distinguished in Losche v. Marion County (1934), 207 Ind. 44, 46, upon the same ground that the Seiler case involved statutes enacted at the same session of the Legislature.

Therefore, both in regard to the statutes enacted by the 1941 General Assembly and those of the 1945 General Assembly, it is necessary that we construe the statutes in *pari materia* and if, by any rule of statutory construction full effect may be given to each, such rule must be applied to avoid any repeal or modification by implication. Furthermore, it is a rule of statutory construction that statutes upon the same

subject may be taken into consideration in ascertaining legislative intent whether such statutes are enacted before or after the acts in question.

With these rules in mind we turn first to the 1945 Acts and in Chapter 247, concerning specifically the county officers of Marion County, we find a particular statement by the General Assembly that that act "* * * shall not be construed to repeal or affect the interpretation of any other act of the 84th Assembly." This statement, coupled with the general rule that general things do not derogate from things special and that an act in general terms and not expressly contradicting the provisions of a particular and specific act passed at the same session will not be held to repeal such specific act, compels a conclusion that Chapter 247 relating generally to the fees and emoluments of the sheriff of Marion County does not apply to those fees included in Chapter 179 of the Acts of 1945, which grants those fees to the sheriff personally and establishes detailed and particular proceedings for their collection.

The same reasoning would uphold the right of the sheriffs under the Acts of 1941 and the intent of the Legislature as expressed in the 1945 Acts is, under the authorities above cited, a persuasive factor in determining the intent in the 1941 Acts.

I am, therefore, of the opinion that the settled policy of the Legislature of giving the sheriff the fees earned on foreign writs, which policy existed both before and after the enactment of the Marion County Fee and Salary Act (Chapter 234, Acts of 1941) and its amendment by Chapter 247 of the Acts of 1945 was not modified by the Acts of 1941, and that that act must be construed as withdrawing from the sheriff and making payable to the county those fees from the service of domestic writs, but not those fees earned upon writs issued by the courts of other counties. However, there is nothing in the Acts of 1941, or previously, which would entitle the sheriff to any fees earned on processes issued by courts of the county of his office in causes venued to that county from other counties, that right having originated in Chapter 179 of the Acts of 1945.

It is my opinion, therefore, that your questions should be answered as follows:

1. The sheriff of a county having a population of 300,000 or more is entitled to collect and retain as his own separate property the fees accruing on writs and processes issued by court or proper officer thereof, of any county other than the county of his office, whether such fees accrued prior or subsequent to the effective date of Chapter 179 of the Acts of 1945.

2. The sheriff of such a county is entitled to collect and retain as his own separate property the sheriff's fees accruing on any writ or process issued by any court of the county of his office or proper officer thereof in causes venued to such county, provided that such fees accrued after the effective date of Chapter 179 of the Acts of 1945.

OFFICIAL OPINION NO. 123.

December 5, 1945.

Honorable John H. Lauer, Chairman
State Highway Commission of Indiana,
Statehouse Annex,
Indianapolis, Indiana.

Dear Sir:

I have your request for an opinion on the following statement of facts:

> "Section 8 of the Federal Aid Highway Act of 1944 provides that not to exceed 1½ per centum of the amount apportioned for any year to any state shall be used for surveys, plans, engineering and economic investigations of projects for future construction in such state, on the Federal Aid highway system and extensions thereof within municipalities, on secondary or feeder roads, urban highways or grade crossing eliminations, and *for highway research necessary in connection therewith.*
>
> "Section 26 of the State Highway Act (As amended Acts 1937, Page 1151) on 'Joint Road Meetings' states that the state highway commission may cooperate with and assist Purdue University in developing the best methods of improving and maintaining the highways