

substantial evidence for such refusal, and that such action by the State Chemist would be subject to a right of review by a judicial court of competent jurisdiction to determine if the requirements of due process have been satisfied. The statute in question, being of a penal nature, would be strictly construed in favor of such applicant.

This office can only give opinions on questions of law and will not presume to predict what determination might be made by a judicial court on the question of fact as to the reasonableness of the refusal of such license, or as to the sufficiency of the facts necessary to support such refusal.

SOLDIERS' AND SAILORS' CHILDREN'S HOME: ADOPTION: The adoption of children from such institution is controlled by Chapter 182, Acts of 1933, and not by general adoption statute.

March 30, 1944.

Opinion No. 34

Hon. L. A. Cortner, Superintendent,
Indiana Soldiers' and
Sailors' Children's Home,
Knightstown, Indiana.

Dear Sir:

Your letter of March 24, 1944, received requesting an official opinion upon the following question:

"The question now comes as to whether the adoption law written specifically for this Institution in Chapter 182, in Indiana Acts of 1933, prevails or if this procedure must be changed because of the adoption law, Chapter 146, in Indiana Acts of 1941."

Chapter 182 of the Acts of 1933, being Section 22-2326, *et seq.*, Burns' 1933, is a special statute giving to the board of trustees of the Indiana Soldiers' and Sailors' Children's Home authority to approve or reject the placing of children in the custody of such institution in private homes, and outlining in detail the procedure to be followed in case such children are thereafter later adopted. Among other things, such adopting parents are required to enter into a written agreement with the board of trustees of such home regarding the provisions

made for such child and the care to be given it. Said Act further provides that the adoption petition shall be filed in the Rush Circuit Court in Rush County, Indiana, where such institution is located; provides for the contents of such petition; the procedure to be followed and the notice to be given; and it further provides the form of order that shall be made by the court. It is, therefore, clear that the above statute is a special Act dealing with the adoptions of children in the custody of said children's home.

It has been determined that the laws relating to the Indiana Soldiers' and Sailors' Children's Home are special and supplementary to other laws providing for the building and maintenance of orphan asylums, children's hospitals and similar institutions.

Estes v. National Veneer and Lumber Co.
(1935), 100 Ind. App. 609, 614.

Chapter 146, Acts of 1941, same being Section 3-115 *et seq.*, Burns' 1943 Supp., is a general statute relating to adoption of persons. This statute contains a general repealing clause.

In the case of Million et al. v. Metropolitan, etc., Co. (1932), 95 Ind. App. 628, the court, in holding that a special statute dealing with improvement of State highways, which statute determined the notice to be given sureties on the general contractor's bond, was a special statute and was not repealed by a later general statute covering the notice to be given by sub-contractors and materialmen to sureties on bonds, said on page 637 of the opinion:

"* * * The above act was a special act, creating the highway commission and defining its powers, etc., and it is a fundamental rule of construction that 'special acts' are not repealed or modified by 'general acts', by implication. It is held that a general act 'repealing all laws inconsistent therewith', refers to general laws, and does not change or repeal 'special laws'. (Citing Cases) * * *"

Also see:

Knox County Council v. State ex rel. McCormick
(1940), 217 Ind. 493, 514;

Straus Brothers Co. v. Fisher (1928), 200 Ind.
307, 316.

In Sutherland Statutory Construction, 3rd Edition, Vol. 1, page 486, Section 2021, the following well established rule of statutory construction applies:

“* * * An implied repeal of prior statutes will be restricted to statutes of the same general nature, since the legislature is presumed to have known of the existence of prior special or particular legislation, and to have contemplated only a general treatment of the subject matter by the general enactment. Therefore, where the later general statute does not propose an irreconcilable conflict, the prior special statute will be construed as remaining in effect as a qualification of or exception to the general law.” (Citing Cases.)

It is, therefore, my opinion that adoption of children from your institution is now controlled by said Chapter 182 of the Acts of 1933, which is a special statute on such subject, and is not affected by the subsequent enactment of the general statute regarding adoption, to-wit: Chapter 146 of the Acts of 1941.

STATE BOARD OF ELECTION COMMISSIONERS: Elections. Right of residents to vote in areas owned and ceded to U. S. Gov't.—Right of residents to vote in areas owned by U. S. Gov't. but not ceded thereto by the State.

March 30, 1944.

Opinion No. 35

Indiana State Board of
Election Commissioners,
Indianapolis, Indiana.

Dear Sirs:

This will acknowledge receipt of your letter dated March 7th, 1944, which reads as follows:

“The State Board of Election Commissioners received the following letter from Clayton L. Rhoads, Clerk of La Porte Circuit Court:

‘I should be pleased to have you check the matter of the status of people living within the Kingsbury