applied, although interurban railroads were not in use when the weed cutting law was enacted.

I think the above rule of statutory construction requires me to hold that the 1935 Act which permits shot firing in mines while the man or men are necessarily engaged in charge of the pumps and stables, applies also to men necessarily engaged in charge of the mine electric locomotives which are housed and cared for in the stables formerly used for the mine mules or horses.

DEPARTMENT INSPECTION AND SUPERVISION OF PUBLIC OFFICES: Compensation of deputy assessors who act as enumerators of male voters.

December 28, 1943.

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

Dear Mr. Jensen:

This will acknowledge receipt of your letter dated December 22nd, 1943, which reads in part as follows:

"A question has been presented from a county regarding additional compensation for deputy assessors, who also acted (in 1943) as enumerators of male voters pursuant to Chapter 138, Acts 1937, page 790.

"In one township the deputy assessors filed a claim for $3.00 per day for services on deputy assessors, another claim for $3.00 per day for taking the census of male voters, which made the total $6.00 per day.

"We would like to have your opinion on the following question:

"Is the per diem provided by statute for deputy assessors to be interpreted to be compensation in full for assessing and enumeration of male voters, or are such deputy assessors entitled to a per diem for assessing and a per diem for enumeration of male voters?"
Burns’ R. S. 1943 Replacement Volume 11, Section 64-401, provides that personal property in the state of Indiana shall be listed for taxation between the first day of March and the fifteenth day of May of each year.

Section 64-601 provides that the township assessor shall between March 1st and May 15th of each year call upon each person required to be assessed and furnish him or her with the proper blanks for the purpose and make and return a schedule of all property to be assessed.

Section 64-1002 provides for the appointment of deputy township assessors, and Section 64-1005b provides for the payment of such deputy township assessors upon a per diem basis for services rendered in making such assessment.

Section 64-1002 provides for the appointment of deputy township assessors, and Section 64-1005b provides for the payment of such deputy township assessors upon a per diem basis for services rendered in making such assessment.

Section 65-601 provides for the taking of the enumeration of voters once every six years.

Section 65-603 requires that this enumeration of voters be taken between January 1st and July 1st of each year in which the enumeration is to be taken.

Section 65-604 provides for the appointment of assistants to take the enumeration of voters and Section 65-623 provides that such assistants employed for the purpose of taking the enumeration of voters shall receive as compensation the sum of $3.00 per day for each day necessarily employed in making such enumeration.

It is thus seen that the enumeration of voters and the assessment of personal property may both be made at the same time, to-wit, between March 1st and May 15th. It is settled by the decisions of the Supreme Court of Indiana that the law does not recognize any fraction of a day, but that a day means a period of twenty-four hours between midnight and midnight of the following night.

Towell v. Hollweg, 81 Ind. 154 on 158;

Again it has been held that where a statute fixes compensation for services rendered upon a per diem basis and the person involved renders any services upon a given day, such person is entitled to receive the statutory compensation whether the time involved was ten minutes, one hour, eight hours, or twenty-four hours.
Monroe v. State, 157 Ind. 45 on 48;
Board, etc. v. Board, etc., 27 Ind. App. 378 on 406.

Under the statutes referred to in this letter and the law as declared by the Supreme and Appellate Courts of Indiana, in the cases heretofore cited, it is my opinion that the deputy assessors involved are entitled to a per diem for assessing and also a per diem for enumeration of male voters, provided both services are rendered on the same calendar day.

GROSS INCOME TAX DIVISION: Duty of sheriff acting under tax warrant with respect to intangibles.

December 29, 1943.

Hon. Gilbert K. Hewit, Director,
Gross Income Tax Division,
141 South Meridian Street,
Indianapolis, Indiana.

Dear Sir:

Your letter requests an official opinion upon the following question:

“To what extent may a sheriff, acting under a warrant issued pursuant to Section 13(a) of the Gross Income Tax Act of 1933 as amended, levy upon such intangible items as open accounts, judgments, rents, and wages owing to the taxpayer by other persons?”

Section 13(a) of the Gross Income Tax Act of 1933, 64-2613 Burns 1933, was amended by the Acts of 1937, Chapter 17, Section 13(a), page 604, 64-2613, Burns' 1933 Supplement as follows:

“If any tax imposed, or any portion of such tax, be not paid within thirty (30) days after the same is found to be due, the department shall issue a warrant under its official seal, directed to the sheriff of any county of the state, commanding him to levy upon and sell the real and personal property of the person owing said tax, found within his county, for the payment of