fication or the passage of superseding legislation. Consequently, it is my opinion that Section 48 of Chapter 139 of the Acts of 1941 can be validly administered only with respect to laws passed before its passage and that it has no impact or effect upon the provisions of Chapter 195 of the Acts of 1941.

Summing up, it is my opinion in answer to your first question that the Library Certification Board Act supersedes, so far as the State Library is concerned, the provisions in the State Personnel Act putting the State Library under the control of the state merit system but only with respect to professional library service.

Your second question is answered in the affirmative and certificate holders under the Library Certification Board are entitled to appointment without taking examinations prescribed by the State Personnel Board, whether they are present incumbents of positions in the State Library or whether they have yet to secure certificates for library service.

It is unnecessary to answer your rather hypothetical third question since it is my opinion that the State Personnel Board has no authority or control over applicants for professional positions in the State Library.

In answering your fourth question affirmatively, it is my opinion that not only is it legal for the State Library to pay as its share the cost of administration of the State Personnel Act a sum based only upon the number of its employees excepting the professional library positions, but you are directed to so figure your pro rata share of the Personnel Act administrative expense.

STATE HIGHWAY COMMISSION: Whether Commission is required to take bids on more than one type of pavement for a resurfacing job.

June 29, 1942.

State Highway Commission of Indiana,
Indianapolis, Indiana.

Dear Sirs:

You have asked whether or not you have the discretionary power to take bids on more than one type of resurfacing for any designated project.
Reference to resurfacing projects is found in Section 8, Chap. 256, Acts 1937, P. 1199 at 1206, Section 36-2908, Burns' Ind. St. Ann. Supp. 1941, which authorizes the payment of resurfacing costs out of funds appropriated for the construction of highways. It also contains the following:

"In adopting plans for such resurfacing projects and in advertising the same for contract, said commission shall not be required to prepare plans or to advertise for more than one type of resurfacing: Provided, That the base of such portion of said highway or street so to be resurfaced shall in the opinion of said commission be of sufficient thickness and strength to justify a resurfacing of the type determined upon by such commission."

As enacted, the resurfacing statute did not require the Commission to receive bids on more than one type of resurfacing, but, in the Commission's discretion, it could do so.

The General Assembly of 1941 enacted Chap. 12, P. 21 which abolished the State Highway Commission, created the State Highway Commission of Indiana, provided new duties and repealed all laws in conflict therewith. Section 10 of this Act (Sec. 36-169, Burns', etc. supra) contained the following:

"All the jurisdiction, rights, powers and duties now vested in, or required of, the State Highway Commission, as created by said Chapter 18 of the Acts of the General Assembly for 1933, or amendments thereof, or by any other act supplemental thereto, or by any other law, excepting only such as may be in conflict with this act, are hereby continued in full force, transferred to, vested in and imposed upon the State Highway Commission of Indiana as hereby created; all duties required of the Chairman under said Chapter 18, or acts amendatory thereof or supplemental thereto and which do not conflict with this act shall be performed by the Chairman provided for in this act."

The effect of the last quoted language would be to transfer to you, as now constituted, the discretionary power given by the 1937 provision, supra, to receive one or more bids upon
resurfacing projects, unless a conflicting provision is found in the 1941 act.

Section 11 of the 1941 act (Sec. 36-170) requires the Chairman to cause to be prepared standard specifications for three or more distinct types of modern highways, of which at least two shall be a hard surface type and one or more shall be of the non-rigid type of modern pavement, to be designated as the type of highways for which bids are to be received. The section further provides:

"When any part of such state highway is ordered to be constructed or improved, the State Highway Commission shall cause to be prepared profiles, plans and specifications and estimates for these state highways as they are designated for construction and improvement, and it shall be the duty of the chairman, when any part of such state highway is ordered to be constructed or improved, to advertise for proposals and he shall give notice by one publication in two newspapers representing the parties casting the highest and next highest vote in the county, of general circulation in the county, where the work is to be performed, that on a date to be named by the chairman, in such notice, sealed proposals will be received by the chairman, at the office of the State Highway Commission, or other designated place, for the construction, reconstruction, or improvement of such state highway in accordance with the plans and specifications which have been adopted, and which are on file in the office of the State Highway Commission, and when such order provides for the construction of such highways, or any part thereof, such notice shall state that bids will be received on one of the types of highways approved by the commission: Provided, the Commission when designating certain light traffic state highways for construction or improvement may advertise for and receive bids for one or more types of highways; and for which specifications have been adopted, as heretofore provided."

The question arises as to whether or not the requirement that notice shall be given that bids will be received on one
of the approved types of highways, when the order of the Commission provides for the construction of such highways, as contained in the underlined language of the excerpt above quoted, is applicable to a resurfacing project. Read entirely apart from the rest of the section in which it appears, the italicized language might literally be taken to impose such requirement only when the road ordered is an original construction, as distinguished from a reconstruction or resurfacing project. It is axiomatic, however, that in determining the meaning of statutory language, it is to be examined in connection with the entire act, of which it forms a part, and such meaning will prevail over the apparently inconsistent though literal meaning which might be applied to certain of its terms.

State ex rel. Devening v. Bartholomew (1911), 176 Ind. 182, 191; 95 N. E. 417, Ann. Cas. 1914 B. 91;
Woodring v. McCaslin (1914), 182 Ind. 134; 104 N. E. 759;
Cyrus v. State (1924), 195 Ind. 346, 348; 145 N. E. 497;

It will be noted that the first part of the language last above quoted requires the preparation of profiles, plans and specifications and estimates for state highways for “construction and improvement.” Next the means of advertising for bids by publication is provided whenever such a highway is ordered “to be constructed or improved.” The contents of such advertisement for bids for the “construction, reconstruction or improvement of a state highway” are set out, including the time and place of receiving bids. Also, in the advertisement is to be included the statement that bids will be received “on one of the types of highways approved by the commission.” That such statement is to be included in advertisements for bids for improvement as well as original construction of highways is indicated by the language contained in the provision wherein the Commission is vested with the discretion of advertising for bids upon one or more types of highways when designating “light traffic state highways for construction or improvement.” If the word “construction” as used in the
sentence immediately prior to the word "Provided" was intended to be used in the restricted sense of including only original, new construction, and excluding improvement such as resurfacing, the use of the word "improvement" in the proviso was wholly unnecessary and ineffective. But in giving effect to the use of the word "improvement" in this clause, it follows that the proviso prescribes the conditions under which the Commission is authorized, though not required, to advertise for bids upon more than one type of highway.

That the General Assembly has considered resurfacing projects as coming within the meaning of "construction" is indicated by the provision made in Chap. 256, Acts 1937, Section 8, supra, wherein it authorizes the payment of such costs "out of funds appropriated to said Commission for the construction of highways." This provision has not been since repealed nor is it in conflict with any other provision of the 1941 act.

In answer to your question, I would say that unless the advertisement is for proposals for the construction or improvement of designated light traffic highways, you should specify in your notice the type of highway for which bids will be received.

DIRECTOR OF THE BUDGET: Penal and Correctional Institutions—Whether such institutions may sell obsolete equipment; whether such institutions may convert obsolete equipment into cash in view of Chapter 156 of the Acts of 1941.

July 2, 1942.

Mr. C. A. Ketchum,
Director of the Budget,
State House,
Indianapolis, Indiana.

Dear Mr. Ketchum:

I have your request for an official opinion concerning the authority of the penal and correctional institutions of the State to convert obsolete equipment or supplies into cash especially in view of the provisions of Chapter 156 of the Acts of 1941. You ask two specific questions as follows: