which operates two (2) shifts of not more than eight (8) hours each and not more than five (5) days per week may employ any woman or female young person in any capacity for the purpose of manufacturing between the hours of six o'clock in the morning and twelve o'clock at night."

You will note that the statute uses the words "for the purpose of manufacturing." Therefore, it is necessary to determine whether or not the employment of a switchboard operator in a manufacturing plant is for the purpose of manufacturing.

The word "purpose" has been defined as follows:

"'Purpose' is that which one sets before himself as the end, aim, effect or result to be kept in view or object to be attained."

Kessler v. City of Indianapolis, 199 Ind. 420, 426.

It is suggested that a switchboard operator employed in the office would be very remotely connected with the manufacture of products.

It is, therefore, my opinion that such person would not come within the provisions of the above quoted statute.

PROSECUTING ATTORNEYS, MARION COUNTY: Allowance for deputies, investigators and clerical assistants not increased $5,000 by provision for investigators.

INVESTIGATORS IN MARION COUNTY PROSECUTOR'S OFFICE: Provision for, does not increase total allowance $5,000.

January 14, 1941.

Mr. E. P. Brennan, State Examiner,
State Board of Accounts,
State House,
Indianapolis, Indiana.

Dear Sir:

You have asked for my opinion upon the following question:
"Is the county council of Marion County limited in making appropriation for deputy prosecuting attorneys, investigators and assistants to $60,000.00, or is the $5,000.00 as provided in Chapter 163, Acts 1937 in addition to the $60,000.00 provided in Chapter 256, Acts 1935?"

Provision was made by Chapter 140, Acts of 1933, page 770 (Sec. 49-2601 et seq, Burns' Ind. St. Ann. 1933) for salaries for all prosecuting attorneys in the State of Indiana. As originally enacted, provision was made by Sec. 51 that in Marion County the annual salary of prosecuting attorney should be $6,000, the maximum aggregate amount for deputy prosecuting attorneys was fixed at $38,600 and the maximum aggregate amount for stenographers and recording clerks was fixed at $6,900. Sec. 51 was amended in 1935 leaving the salary of prosecuting attorney unchanged, but in lieu of the separate amounts for deputy prosecuting attorneys and for stenographers and recording clerks the following was enacted:

"The aggregate amount that shall be paid annually for salaries of deputy prosecuting attorneys, investigators and clerical assistants shall be sixty thousand dollars."

Chapter 256, Acts 1935, page 1282, Sec. 49-2651, Burns' etc., Supp. 1940. This amending act had an emergency clause and thus became effective upon its approval, March 12, 1935.

At the same session of the General Assembly a separate and independent act was passed authorizing prosecuting attorneys in counties having a population of not less than 95,000 nor more than 150,000 and in counties having a population of not less than 200,000 and not more than 400,000 to appoint one or more investigators, prescribing their duties and requiring bond. This act also contained the following:

"The aggregate amount which may be paid annually for the salaries of such investigators shall be fixed by the county council and shall not exceed five thousand dollars."


This act contained no emergency clause and became effective subsequent to the effective date of Chapter 256, supra.
In 1937, Chapter 305 of the Acts of 1935 was amended to make it applicable to prosecuting attorneys of all counties having a population of more than 95,000. In lieu of the language last above quoted, the following was enacted and is now in effect:

"The salary or other compensation to be paid such investigators shall be fixed by the prosecuting attorney appointing them, but before constituting any obligation of the county shall be approved in advance by the judge of the circuit court, and the aggregate amount to be paid such investigators shall not exceed the sum of five thousand dollars in any one county in any one year. When the salary or other compensation of such investigators is so fixed and approved by the prosecuting attorney and judge of the circuit court, the county council shall appropriate the necessary funds to pay the same."

Chapter 163, Acts 1937, page 857;
Sec. 49-2514, Burns, etc., Supp. 1940.

By both Chapter 305 of the Acts of 1935 and Chapter 163 of the Acts of 1937, the maximum amount which the prosecuting attorney of Marion County is authorized to fix for payment to investigators is $5,000 per year. The later act, insofar as Marion County is affected, substantially differs from the preceding act only in that the approval of the Judge of the Circuit Court is required before the County Council shall make the appropriation. Therefore the answer to your question depends upon whether the effect of Chapter 305 of Acts of 1935 was to authorize an appropriation in Marion County of not to exceed $5,000 per year for investigators' salaries in addition to the aggregate amount of $60,000 per year for "salaries of deputy prosecuting attorneys, investigators and clerical assistants" provided by Chapter 256, Acts of 1935, Sec. 49-2651, Burns' etc. Supp. 1940. Such a construction would amount to an implied repeal of so much of Chapter 256, Acts 1935 as fixed the "aggregate amount" to be paid annually for salaries of deputy prosecuting attorneys, investigators and clerical assistants at $60,000. Neither Chapter 305, Acts of 1935 nor its amending act, Chapter 163, Acts of 1937 contained a repealing clause, and neither of them purported to amend Chapter 256, Acts of 1935. (Sec. 49-2651, Burns' etc. Supp. 1940.)
Certain well established rules of statutory construction are that repeals by implication are not favored, that a statute will only be considered impliedly repealed where an irreconcilable conflict exists and that statutes enacted upon the same subject will be construed in pari materia, i.e., together, as though they constituted one act, in the absence of express repeal or irreconcilable conflict.

“This is true whether the acts relating to the same subject were passed at different dates, separated by long or short intervals, at the same session, or on the same day. Where enactments separately made are read in pari materia they are treated as having formed in the mind of the enacting body parts of a connected whole, though considered by such body at different dates and under distinct and varied aspects of the common subject.”


Inasmuch as Chapter 256 and Chapter 305 of Acts of 1935 are not necessarily in conflict, but may be harmoniously construed whereby the aggregate appropriation for deputy prosecuting attorneys, investigators and clerical assistants shall not exceed $60,000 per year, including a limitation of not to exceed $5,000 per year for salaries and other compensation of investigators, such a construction is required. Such a construction is unchanged by the enactment of Chapter 163, Acts of 1937, which merely re-enacted that part of Chapter 305 which bears upon the question here involved.

You are therefore advised that the sum of $5,000 fixed by Chapter 163, Acts of 1937 as the aggregate amount which may be paid to investigators does not constitute a sum in addition to the sum of $60,000 authorized to be paid in Marion County to deputy prosecuting attorneys, investigators and clerical assistants, pursuant to Sec. 49-2651, Burns’ etc., supra.