clearly indicates that it is the morning after New Year's Day that the legislature was speaking of.
Therefore, it is my opinion that it would be unlawful to sell alcoholic beverages between the hours of six o'clock in the morning and twelve o'clock midnight on New Year's Day.

TAX COMMISSIONERS, STATE BOARD OF: Change of venue in criminal causes, whether Acts, 1905, Ch. 169, Sec. 216 is repealed by implication by Acts, 1913, Ch. 210, Sec. 1.

December 13, 1939.

Hon. Philip Zoercher, Chairman,
State Board of Tax Commissioners,
State House,
Indianapolis, Indiana.

Dear Mr. Zoercher:

I have your letter of December 12, 1939, in which you ask the following question:

"1. Has section 9-1314 Burns 1933 (Acts 1905, p. 584), been repealed or superseded by section 2-1417 Burns (Acts 1913, p. 612) ?"

Section 9-1314, Burns, 1933, being section 210 of chapter 169 of the Acts of 1905, is as follows:

"Whenever in any criminal prosecution, a change of venue shall have been taken from the county in which such prosecution originated, the trial court shall have authority to appoint counsel on behalf of such original county to prosecute such action or to defend any poor person defendant therein. Counsel so appointed shall be entitled to reasonable compensation for services in such cause, but the amount thereof shall be settled and allowed by the judge of the court from which the change of venue was first granted."

Section 2-1417, Burns, 1933, being section 1 of chapter 210, of the Acts of 1913, as far as pertinent here, is as follows:

"In all cases, civil or criminal, where there has been or shall be a change of venue from one county to another, the county from which such change of venue
has been or shall be taken shall pay to the county to which such change of venue has been or shall be taken all such expenses as have been or shall be incurred by the county to which said change of venue has been or shall be taken, including, in criminal cases, the expense of keeping the prisoner, if any, and, in all cases, the fees paid by such county to the jury trying the cause and any of the regular panel of jurors not engaged in such trial, allowances to bailiffs and all other expenses necessarily incurred by such county in consequence of such change of venue and the trial of such cause; such expenses shall be audited and allowed by the court to which such cases have been or shall be venued and such allowance shall be by such court certified in duplicate to the auditor of said county, who shall retain one of said certificates of allowance in his office and shall transmit, by registered mail, the duplicate thereof to the auditor of the county from which such expenses are due, and such duplicate certificate of allowance shall be by the auditor of said debtor county entered as a claim against such county on the claim docket in his office for allowance by the board of commissioners of said county at their next regular or special session."

It is seen that the Act of 1905 specifically provides that whenever in any criminal prosecution, a change of venue shall have been taken from the county in which such prosecution originated, the trial court shall have authority to appoint counsel on behalf of such original county, to prosecute such action, or to defend any poor person defendant therein. It is then provided that reasonable compensation for services shall be allowed and shall be fixed by the judge of the court from which the change of venue was first granted.

The Act of 1905 was an Act concerning public offenses. The Act of 1913 was an Act relative to expenses incurred in change of venue, the payment thereof, providing a penalty for violations thereof and repealing all laws in conflict therewith. The Act applies to both civil and criminal cases. It provides that the county from which such change of venue has been or shall be taken shall pay to the county to which such change of venue has been or shall be taken all such expenses as have been or shall be incurred by the county to which said change of venue has been or shall be taken, including in criminal cases...
the expense of keeping the prisoner, if any, the jury fees, allowance to bailiffs and all other expenses necessarily incurred by such county. It provides that such allowances shall be audited and allowed by the court to which such cases have been or shall be venued, then certified in duplicate to the auditor of said county who shall retain one certificate and send the other to the auditor of the county from which the expenses are due and there allowed by the board of county commissioners.

It is significant that in the 1913 Act there is nothing said about appointing counsel in behalf of the original county to prosecute or defend an action, nor who should fix and allow the amount of compensation for services, while in the 1905 Act it is specifically provided that the judge of the court from which the change of venue was first granted shall fix the amount of compensation.

The 1913 Act did not expressly repeal the provision of the Act of 1905 and, if it is repealed, it must be by implication. I am of the opinion that it is not repealed by implication and that it is still in full force and effect.

Repeals by implication are not favored and where possible such construction will be adopted as will permit both Acts, or provisions thereof, to stand. Beard v. State ex rel. Cotta, 176 Ind. 353. Two or more Acts upon the same subject will, if possible, be so construed that both may stand. Renner v. State, 182 Ind. 394. Moreover, the legislature is presumed to know the provisions of prior laws on a subject and to repeal the same by express terms, if a repeal is desired. Collins Coal Co. v. Hadley, 38 Ind. App. 637.

In answer to your question, it is my opinion that section 9-1314, Burns, 1933, Acts of 1905, has not been repealed by section 2-1417, Burns, 1933, Acts of 1913, and that said section 9-1314, is still in full force and effect.