struction work, except those who have lawful business thereon. The law certainly prevents groups of people from entering thereon who have no lawful business to transact. To permit such entrance would interfere with the progress of the work and at the same time create the possibility of accidents and injuries.

Section 36-1614, Burns Indiana Statutes, 1933, provides:

“Nothing contained in this Act shall be construed to prevent any person who has lawful business in, on or along any such closed highway, or who is obliged to travel such highway to reach his property or place of abode, from removing such barrier to permit ingress or egress thereon.”

The above provision seems to be clear and is applicable to a highway that is passable although under construction. But if a part of a highway, such as a bridge, is under construction and it is necessary for the contractor, in the protection of his work and safety of persons, then in my opinion he would have the right to barricade the particular ground surrounding the work and prevent persons from entering except on lawful business.

NEW HARMONY MEMORIAL COMMISSION: Tax levied by 1939 Act for benefit of, when effective.

April 5, 1939.

Mrs. Frederick G. Balz, President,
New Harmony Memorial Commission,
Indianapolis, Indiana.

Dear Madam:

I have before me your request for an official opinion in answer to the question as to when the first tax as provided by section 21 of chapter 135, of the Acts of 1939, is levied. The Act referred to is entitled:

“An Act providing for the acquisition of land, the construction and establishment of the New Harmony memorial thereon, creating the New Harmony memorial commission and prescribing its rights, powers and duties, fixing a tax levy, making an appropriation, pre-
scribing the duties of the department of conservation, providing penalties and declaring an emergency.”

It was approved March 9, 1939, and went into effect immediately by virtue of an emergency clause contained in Section 29 of the Act.

The answer to your question must be determined upon a construction of the provisions of section 21, above referred to, which provides as follows:

“There is hereby levied a tax of one mill on each one hundred dollars of taxable property within the State of Indiana for each of the years 1940, 1941, 1942, and 1943. Such tax shall be levied and collected as other state taxes are levied and collected, and when collected shall be paid into the state treasury and shall constitute a separate and distinct fund to be known as the New Harmony memorial fund. All money accruing to the New Harmony memorial fund is hereby appropriated to the use of the New Harmony memorial commission and shall be used in carrying out and administering the provisions of this Act, in the manner and for the purposes hereinbefore provided. Provided, however, that before any money is expended, the commission shall submit a budget to the Budget Committee for its consideration and approval. The Department of Treasury of the State of Indiana is hereby authorized to advance such sums of money as may be needed for the better promotion of the uses and purposes of this Act in anticipation of certain returns by the tax levy and charge the same regularly against the New Harmony Memorial fund.”

In construing a statute, the intent of the legislature is the object to be sought, and in arriving at that intent the general purpose of the statute, as evidenced by the language used, is of first importance. Where the language used is ambiguous and does not readily yield the intent of the legislature by the application of the rule as above stated, courts are authorized to take into consideration the history leading up to the enactment and such other similar matters as will give effect to the intent of the legislature. In this particular case, however, I do not think it is necessary to enter into extended
discussion because I think the language used is sufficient to demonstrate what the real intent of the legislature was.

It will be noted that the provision of Section 21 in its opening sentence is that "There is hereby levied a tax," etc. This, I think, is important because it indicates that the legislature is itself making the levy rather than authorizing or commanding some other body to make such levy according to certain rules set up by the legislature. In this case as in other cases, the use of and ordinary meaning of words is of major importance. For instance, the word "levy" means, as applied to a tax, "to exact or impose by authority." If that is true, then the tax in this particular case is already levied directly by the legislature. The next word of importance in this particular provision of the statute is the word "for," which, according to Webster's New International Dictionary (Second Edition), means: "indicating the end with reference to which anything " */ * */ is done; as: */ */ to supply the needs of */ */." In other words, the exact language of the statute, substituting the specific meaning of the above key words, is as follows: "There is hereby exacted or imposed by authority a tax of one mill on each one hundred dollars of taxable property within the State of Indiana to supply the needs of each of the years 1940, 1941, 1942 and 1943."

My attention has been called to the language immediately following the first sentence of section 21 to the effect that "such tax shall be levied and collected as other state taxes are levied and collected" */ */, but I do not think this language limits what appears to me to be the clear intent of the legislature expressed in the opening sentence that the tax should be considered as levied now "for," that is, to supply the needs of "each of the years 1940, 1941, 1942 and 1943." The only way in which that result can be obtained is by treating the first levy as made in 1939, and I see no reason why that should not be done because the express language of the statute is that "There is hereby levied a tax," which, in the absence of limiting language, would certainly mean that the tax is levied as soon as the Act becomes effective. This interpretation, I think, too, is supported by the fact that the entire Act went into effect on March 9, 1939, by virtue of an emergency clause.

Summarizing, I think the intention of the legislature, as evidenced by the language used, was to levy a tax now to
supply the needs of the year 1940 and to levy a similar tax in
the succeeding years 1940, 1941 and 1942 for the needs re-
spectively of 1941, 1942 and 1943.

The provision that "such tax shall be levied as other state
taxes are levied and collected" has reference, I think, to the
mechanics of spreading the tax of record and collecting the
same, including the imposition of penalties for delinquencies
and matters of that sort. The language does not, in my opinion,
limit the clear statement in the first sentence of section 21 that
a tax is now levied to supply the needs of the years therein
designated. The only way in which that purpose can be
effectuated is to consider the first levy as having been made
and to be spread and extended of record as other taxes levied
in 1939 are extended and recorded.

TAX COMMISSIONERS, STATE BOARD OF: Act confer-
ring power to set aside or correct tax refunds, whether
unconstitutional as vesting judicial authority in admin-
istrative body.

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

April 5, 1939.

Dear Mr. Zoercher:

I wish to acknowledge your letter of April 4, asking for an
official opinion based upon your letter which is as follows:

"Chapter 159, Acts 1937, p. 846, provides in section
2, for refunds in certain cases, of inheritance taxes
where there has been a mistake made in determining
such taxes. In case of non-resident refunds this board
was petitioned to correct valuations made by it and
acted in certain instances. Another provision of this
section provides that petitions for refunds for mis-
taken assessments, etc., in resident estate can be filed.
This raises a question as to the constitutionality of this
statute which vests an administrative board of power
and authority to set aside the judgment of a court.

"It should be noted then that in resident estates
valuations are finally determined by the courts and