days or occasions of ceremony. We find nothing in this section, or in any other, which extends the absolute right to a member of the national guard to wear the uniform upon any occasion, except when he does so under express authorization of his superior officer.

LIEUTENANT-GOVERNOR: Whether governor may appoint state fair and board of agriculture employees and authority of governor and board of agriculture in connection with state fair.

May 17, 1933.

Hon. M. Clifford Townsend,
Lieutenant Governor,
State of Indiana.

Dear Sir:

I have before me your request for an official opinion regarding certain matters as submitted in your letter of May 11, 1933. I will endeavor to discuss the various questions in the order in which they are presented.

Question 1. "Under the reorganization act does the governor have the authority to appoint the state fair board of agriculture employees, with the exception of the secretary-treasurer and superintendent of grounds?"

Section 5 of chapter 4, Acts of 1933, designated as the "state executive-administrative act," reads as follows:

"That the tenure of office of each and every officer, employee or servant of the executive including the administrative department of the State of Indiana, of whatsoever nature and kind of appointment, designation or employment now prevailing, save and except only those officers specifically defined in section 3 hereof as being provided for in the Constitution, and save and except the attorney-general for the State of Indiana for the remainder of his elected term, be and the same is hereby terminated at the pleasure and discretion of the governor, and in all events not later than the thirtieth day of June, 1933; and thereafter no such officer, employee or servant of the executive including the administrative department of the State of Indiana shall
longer continue in office unless he be further appointed as hereinafter provided.”

Section 6 of the same act reads in part as follows:

“That the governor, being vested with the executive powers of the state, be and he is specifically authorized and empowered to appoint and commission each and every officer, employee or servant of the executive including the administrative department of the State of Indiana, except as hereinafter stated; * * *.”

By section 2 of the above named act, eight divisions of “the executive including the administrative department of the State of Indiana” are created, one of which is designated as the “department of commerce and industries.”

Chapter 257 of the Acts of 1933 (p. 1140), provides that:

“There is hereby created a division of agriculture under the department of commerce and industries. The chief administrative officer of the department of commerce and industries shall be the administrative and executive officer of the division of agriculture. All of the rights, powers and duties conferred by law on the Indiana board of agriculture under the provisions of an act entitled * * * are hereby continued in full force and are hereby transferred to and conferred upon the division of agriculture under the department of commerce and industries; and shall be held, exercised and possessed by the division of agriculture under the department of commerce and industries under the laws now in force or hereafter enacted.” (Our italics.)

It seems clear that under this latter act, the power of appointing or designating such employees as were allowed the board of agriculture by law, was transferred to the division of agriculture under the department of commerce and industries, along with the other “rights, powers and duties” formerly conferred by law upon the board of agriculture. And by virtue of sections five and six of the “state executive-administrative act” quoted above, the power of appointing and/or dismissing all employees of the eight departments created by said act was expressly vested in the governor.

However, section two of chapter 257 of the Acts of 1933, being the act creating the division of agriculture as above re-
ferred to, provides that the board of agriculture "shall serve as a non-executive board in an advisory capacity to the division of agriculture" etc. Referring specifically to the state fair, it says:

"Said non-executive board, subject to the approval of the governor, shall have power to hold state fairs at such times and places as it may deem proper and expedient and have the entire control of the same, fixing the amounts of various purses." etc. (Our italics.)

The language "subject to the approval of the governor" preceding, as it does, the grant of certain powers to the board of agriculture with relation to the state fair, is a specific limitation attached by the legislature to all of the powers so granted to the board of agriculture. So, while the grant of "the entire control" of the state fair to such non-executive board would seem clearly to carry with it the right of appointment of state fair employees, still that right is "subject to the approval of the governor" and thus he is given a veto power with reference to all such appointments.

My answer to your first question is, that the governor has the exclusive power of appointment of all board of agriculture employees other than those who are strictly state fair employees; and that with regard to the latter, the appointive power is vested in the board of agriculture "subject to the approval of the governor."

Question 2. "In the new act, which places the board of agriculture in the division of agriculture under the department of commerce and industry, what authority does the governor have and what authority does the board have concerning the state fair? What authority does the head of the division of agriculture have?"

This question is largely answered by the discussion of Question one above. The governor has the right of approval of all matters in any way connected with the state fair—a general veto power. The board of agriculture is given "entire control" of the state fair, subject, however, to the approval or veto power vested in the governor. No authority is given the head of the division of agriculture with regard to matters pertaining strictly to the state fair. In this connection, some confusion may arise from the language of section three of the
act creating the division of agriculture (Chap. 257, Acts of 1933, p. 1140). This section abolishes the offices of executive committee, secretary-treasurer, or secretary and treasurer, and superintendent of buildings and grounds; except that the secretary-treasurer and superintendent of buildings and grounds now in office are to continue in office “until the expiration of their present contract, but they shall in all things be subject to the orders and directions of the department of commerce and industries.” It is the view of the writer that the legislature intended this language to refer to the routine duties and powers of the secretary-treasurer and the superintendent of buildings and grounds, or all duties and powers conferred upon them by law except those relating to the state fair. The language of this section is general only, whereas in section 2 of this same act specific language is used to confer the “entire control” of the state fair upon the non-executive board of agriculture “subject to the approval of the governor.” By this specific language in the act, no authority is given to, nor is any left for, the division of agriculture or the department of commerce and industries in connection with the state fair. It is a well accepted rule of statutory construction that if general language and specific language in an act are in apparent conflict, the specific language shall control, unless the statute as a whole clearly shows a contrary intention.


The particular provision should be regarded as an exception to the general provision, so that both may be given effect.

In re Moody, 76 Ind. App. 585.

Question 3. “In one section of the new act it states the governor shall approve all actions of the board relating to the conduct of the fair. Does this mean that the governor shall approve all contracts in connection with the fair?”

This question is covered by the answers to questions one and two above. Contracts made by the board of agriculture in connection with the state fair are “subject to the approval of the governor,” as are all other acts performed by the said board under the express authority given it by section 2 of
chapter 257 with relation to the state fair. (Chapter 257, Acts 1933, p. 1140-1).

**Question 4.** "Under the Acts of 1921, the law which set up the state board of agriculture, which is found in volume 2, Burns Indiana Statutes, section 3511, the law specifies that the agricultural conference shall nominate a board member from each congressional district. In 1931, when the reappointment law was enacted, this conference failed to nominate under the new state congressional set-up. In other words, the representative from the first congressional district does not live in the present first congressional district. In some instances two members reside in the same congressional district. Is it your opinion that the board, as it now stands, is legally organized? If the board is not legally organized would contracts made by it be valid?"

This precise question was presented to this office by a letter from Mr. E. J. Barker, secretary-treasurer of the board of agriculture, and an opinion rendered under date of May 6, 1931. I would refer you to Opinions, Attorney General of Indiana, 1931-32, page 328. This question was very ably discussed at that time, and I concur in the opinion heretofore rendered.

**BOYS’ SCHOOL:** Whether boy past sixteen years of age but not yet seventeen may be committed to this institution.

May 18, 1933.

Hon. O. W. Negus, Superintendent,
Indiana Boys’ School,
Plainfield, Indiana.

Dear Sir:

I have before me your letter of May 12, 1933, in which you ask an official opinion of this office as to whether or not Donald Brumbaugh should be accepted as an inmate of your institution. Your letter encloses a copy of a letter from your institution to Judge Sumner Kenner, of the Huntington Circuit court, a copy of his letter in reply, and a copy of the circular letter issued by your institution relating to commitments and admissions of boys to the institution.

The enclosures show that Donald Brumbaugh will not reach the age of 17 years until August 20, 1933, and that he was