AUDITOR OF STATE: Per diem salary of special judge appointed after October 1, 1932.

May 24, 1933.

Mr. Lawrence Sullivan,
Deputy Auditor of State,
Indianapolis, Indiana.

Dear Sir:
This will acknowledge receipt of your letter of the 24th instant reading as follows:

"Please render this office an opinion relative to the per diem salary of a special judge appointed after October 1, 1932."

The special session of the general assembly of 1932 passed two different acts, one being chapter 25, approved August 13, 1932, and the other being chapter 70, approved August 18, 1932. The question which arises is whether the salary of ten dollars ($10.00) per day as fixed by chapter 25 is subject to the formula reduction as provided by chapter 70. Ordinarily speaking, the law which was last approved by the governor would take precedence over the one approved earlier, and in the event there was a conflict between these two chapters, chapter 70 would control chapter 25, since it was approved by the governor five days later. However, it is a general rule that when one law is general in its terms and another law relates to some special subject which would be covered by such general law, and both laws are passed by the same legislature, the legislature is presumed to have intended to take the special subject out of the operation of the general law and to make a special exception in such case.

The very fact that the general assembly at the same session at which the salary reduction formula law was passed, reenacted the law fixing the salary of special judges at ten dollars ($10.00) per day, would indicate that it was not the intention of the legislature to make this per diem salary subject to the provisions of the general law. This opinion is further borne out by the general rule, that it is the duty of courts to reconcile the various acts of the legislature passed at the same session wherever possible, since it should not be presumed that a legislature would pass, practically at the same time, two laws in conflict with each other.
In addition to this, it is doubtful whether the language of subdivision "c" of section 3 of chapter 70, Acts of 1932, would cover salaries or compensation specifically fixed by such special session or any subsequent session.

It is, therefore, my opinion that chapter 25 of the Acts of 1932, is in full force and that special judges serving as such after October 1, 1932, are entitled to receive the full ten dollars ($10.00) per day without deduction under the provisions of chapter 70.

PUBLIC INSTRUCTION: Whether mayor appoints school boards in cities of fourth class. May 24, 1933.

Hon. Grover Van Duyn,
Assistant State Superintendent,
Department of Public Instruction,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter calling attention to chapter 233 of the Acts of 1933, and submitting the following question with reference thereto.

"In view of the fact that, according to section 7, the mayor appoints certain boards, is the mayor authorized to appoint school boards according to this act?"

The above act is entitled, "An act concerning the classification and government of civil cities, reducing civil cities to civil towns and providing for the government of such towns, fixing and providing for the salaries of officers and employees, repealing all laws and parts of laws in conflict therewith, providing for the date of taking effect of certain provisions and declaring an emergency."

The above subject is clearly the classification and government of civil cities, and in my opinion, is not sufficiently broad to authorize legislation concerning school cities. Moreover, I do not think that section 7 of the act can reasonably be construed to authorize the mayor of a city of the fourth class to appoint the school board in the corresponding school city. In other words, the selection of such school boards as otherwise now provided by law, is not changed by section 7 of chapter 233 of the Acts of 1933.

The answer to your question is in the negative.