OPINION 41

OFFICIAL OPINION NO. 41

July 23, 1958

Mr. Harold K. Calvert, Secretary
Board of Examiners in Watch Repairing
912 State Life Building
Indianapolis 4, Indiana

Dear Sir:

Your request for an Official Opinion on Paragraph 3 of Sec. 1, Ch. 162, Acts of the Indiana General Assembly of 1939 has been received, which reads as follows:

"The Indiana State Board of Examiners in Watch Repairing are requesting an official opinion on paragraph 3 of section 1, Chapter 162, Acts of the Indiana General Assembly of 1939.

* * *

"The Board is asking for the official opinion to determine whether a registered watchmaker can have a watch repair department under his personal supervision and not be on the premises."

In order to answer your question it is necessary to fully state the section and the paragraph you want interpreted. Section 1 of Acts of 1939, Ch. 162, p. 740, as found in Burns' (1951 Repl.), Section 63-2301 and particularly paragraph 3, which reads, in part, as follows:

"From and after the passage of this act it shall be unlawful:

* * *

"(3) For any person, partnership, firm, or corporation to operate a watchmaking or watch repairing business unless it is at all times operating under the personal supervision and management of a registered watchmaker: Provided, however, That nothing herein contained shall be construed to mean the manufacturing of watches and parts, clocks and parts, in a regularly constituted watch or clock factory which has been designated and determined as such by the board of
examiners, and shall not include the manufacturing or repairing of watch or clock cases, but shall include the repairing of all winding mechanisms whether they are parts of such cases or not.”

The statute specifically states in plain language that from and after the passage of the act, it shall be unlawful for any person, etc., to operate a watchmaking or watch repairing business unless it is at all times operating under the personal supervision and management of a registered watchmaker. This language is brief, clear, concise, unambiguous and unequivocal. It means that to operate a watchmaking or watch repairing business it must be at all times operated under the personal supervision and management of a registered watchmaker. It is incongruous to think that a department or business is operated at all times under the personal supervision and management of a person not on, or at the premises.

To hold that the language and provisions of this statute are otherwise, would be to reach an absurd result and one which the Legislature is not presumed to have intended. Such a construction will be avoided:

Jeffersonville v. Weems (1854), 5 Ind. 547;
Brownlee v. City of Princeton (1926), 198 Ind. 148, 152 N. E. 828;
Marks v. State (1942), 220 Ind. 9, 40 N. E. (2d) 108;
Groher v. Colgate-Palmolive-Peet Co. (1932), 94 Ind. App. 234, 178 N. E. 242;

However, the words “at all times” appearing in a statute prohibiting an operation unless it is “at all times” under the personal supervision and management of a registered watchmaker must be given a rational construction, consistent with the Legislature’s intent and must be construed as meaning “at all reasonable times.”

In the case of Continental Paper Grading Co. v. Howard T. Fisher and Associates, Inc. (1954), 3 Ill. App. (2d) 118, 120 N. E. (2d) 577, the words and phrases “supervision,” “personal supervision” and “personal direction and supervision” as the words relate to Illinois Architect’s Act, Laws 1919, p. 218, Sec. 3 (Smith-Hurd Ill. Annotated Statutes, 1957 Cum. P. P., Ch. 101½, Sec. 3) were held to mean and apply as follows:

“As used in this section authorizing corporations to perform specific acts, ‘supervision,’ ‘personal supervision,’ and ‘personal direction and supervision,’ mean supervision by a registered architect in the sense that such architect shall have and exercise the general duty of overseeing the work regardless of who shall actually perform the executive function of directing the subordinates or other personnel regularly or specially employed by corporation to act and actually acting under such general overall directive authority of registered architects.”

Therefore, I am of the opinion that the provisions of Burns’ 63-2301, supra, require that in the operation of a watchmaking or watch repairing business, it must be at all reasonable times operated under the personal supervision and management of a registered watchmaker who is on the premises.

OFFICIAL OPINION NO. 42

July 24, 1958

Mr. Edwin Steers, Sr.
Member, State Election Board
108 E. Washington Bldg., No. 1108
Indianapolis 4, Indiana

Dear Mr. Steers:

Your letter of June 11, 1958, has been received in which you enclose a letter from the attorneys for the trustee of Wabash Township, Adams County, Indiana. The enclosed letter stated that, pursuant to Acts 1955, Ch. 15, as found in Burns’ (1957