

OPINION 47

OFFICIAL OPINION NO. 47

June 18, 1953.

Mr. H. De Witt Owen, Administrator,
State Department of Public Welfare,
141 South Meridian Street,
Indianapolis 14, Indiana.

Dear Mr. Owen:

Your letter has been received in which you request an official opinion on the following question:

“Whether Chapter 267, Acts of 1953, did in fact amend Section 3 of Chapter 116 of the Acts of 1935, which is a part of the Poor Relief Act.”

The title of Chapter 267 of the Acts of 1953 (Senate Enrolled Act No. 261) reads as follows:

“An Act to amend section 1 of an Act entitled ‘An Act to amend section 3 of an act entitled “An Act concerning poor relief and repealing certain laws relating to poor relief,” approved March 4, 1935, and changing the names of county relief institutions to county homes, approved March 13, 1947, and declaring an emergency,’ approved March 7, 1951, and declaring an emergency.”

The opening words of Section 1 are as follows:

“Section 1. That Section 1 of the above entitled act is amended to read as follows: Sec. 1.”

You note in your letter that apparently an attempt was made to amend Section 1 of Chapter 270 of the Acts of 1951, same being Burns' Indiana Statutes Annotated (1951 Supp.), Section 52-146, the opening words of which read as follows:

“Section 1. Section 1 of the above entitled act is amended to read as follows: Section 1. That section 3 of the above entitled act be amended to read as follows: Sec. 3.”

The title of Chapter 270 of the Acts of 1951 reads as follows:

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“An act to amend section 1 of an act entitled ‘An Act to amend section 3 of an act entitled “An Act concerning poor relief and repealing certain laws relating to poor relief,” approved March 4, 1935, and changing the names of county relief institutions to county homes,’ approved March 13, 1947, and declaring an emergency.”

Article IV, Section 21 of the Constitution of Indiana provides as follows:

“No act shall ever be revised or amended by mere reference to its title; but the act revised, or section amended, shall be set forth and published at full length.”

The title of Chapter 267, Acts of 1953 (Senate Enrolled Act No. 261), violates Article IV, Section 21 of the Constitution of Indiana in the following manner:

(a) The title of the Act as set out to be amended is actually the title of the 1947 act except that the draftsman who prepared the same added the 1951 approval date. The draftsman failed to set forth the title to the previous act of 1951 at full length.

(b) Section 1 of the Act is incorrect in this respect: Properly drafted Section 1 is an amendment of Section 3 of the 1935 Poor Relief Act, yet this section does not appear in the title and violates that provision of the Constitution which provides that any section so amended must be set forth at full length.

Case law authority for the above position may be found in the case of *Boring, Auditor v. The State ex rel. Jackson* (1895), 141 Ind. 640, 41 N. E. 270, wherein the Indiana Supreme Court held that the title to an amendatory statute which refers to and sets forth the title of an act which has heretofore been amended and does not refer to or recite the title of such act as amended, is unconstitutional.

Therefore, it is my opinion that Chapter 267, Acts of 1953, did not amend Section 3 of Chapter 116, Acts of 1935, a part of the Poor Relief Act, for the reason that Chapter 267, Acts of 1953, is unconstitutional.