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their poll and personal taxes for the year prior to the year in which such license may be issued. This opinion is distinguished from Attorney General's Opinion No. 29, 1947. In that opinion it was the opinion of the Attorney General that the Board of Medical Registration did not issue the license to practice medicine but that the county clerk issued such license. Therefore, the acts of that board were merely that of reviewing the professional qualifications of that applicant but said board in no way issued any license.

To answer your second question, Section 63-1533 Burns' 1951 Replacement appears to give the answer. That section is in part as follows:

"Certificates of registration shall expire on the last day of the month of July following the date of their issuance or renewal, and shall be invalid from that date unless renewed. * * *"

Webster's New International Dictionary, Second Edition defines "renew" as "to make new again." Thus, the renewal of a license is the granting of a new license and the provisions of Section 42-102 Burns' 1951 Supp. would apply to the granting of a license each year.

OFFICIAL OPINION NO. 34

April 14, 1952.

Honorable Otto K. Jensen,
State Examiner,
State Board of Accounts,
304 State House,
Indianapolis 4, Indiana.

Dear Sir:

Your letter of March 11, 1952 has been received and reads as follows:

"Your official opinion no. 61, July 23, 1951, directed to this department, held the applicable and controlling statute for the operation of the offices of Justice of the Peace and Constable of Calumet Township, Lake

County, Indiana, to be Chapter 184, Acts 1943, same being Burns' 5-108a.

"Pursuant to the opinion the Justice and Constable of said township, who began a new term January 1, 1951, have been limited to the salary provision of said act since rendition of the opinion.

"Prior to the opinion the said Justice and Constable operated under Chapter 223, Acts 1945, as amended by Chapter 179, Acts 1949, same being Burns' Supplement 5-108b *et seq.* These officers received salaries and other allowances provided by this act which were greater than that provided by the 1943 Act.

"Due to change of population the opinion held that Calumet Township could no longer qualify under the 1945 Act but would operate under the 1943 Act and consequently the amount of salary and other allowances would be limited to the amounts specified in the 1943 Act.

"Your official opinion no. 1, January 3, 1952 directed to State Representative Bushemi involved the question as to the amount of salaries payable to incumbent Lake County commissioners. Change of population was a part of the basis for the opinion.

"In arriving at a conclusion, Chapter 28, Acts 1920 (Special Session), Burns' 49-1101, was discussed as to its effect of continuing the amount of salary of incumbent commissioners as provided by Chapter 236, Acts 1949 notwithstanding a change of population had removed Lake County from the purview of the Act.

"Although some concern was expressed as to the constitutionality of the 1920 Act, the opinion held that such salaries remained *status quo* as provided by Chapter 236, Acts 1949.

"Opinions 61 and 1 appear to be inconsistent. A question has been presented to us as to the effect of opinion 1 upon the salaries and other allowances of the Justice of the Peace and Constable of Calumet Township, Lake County.

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"We respectfully request your official opinion upon the following:

"(1) What effect does OAG 1, 1952, have upon OAG 61, 1951, as to salary and other allowances for the Justice and Constable of Calumet Township, Lake County, Indiana?

"(2) If OAG 1, 1952, is likewise applicable to the affected township officers, are salaries and other allowances provided for by Chapter 223, Acts 1945 as amended by Chapter 179, Acts 1949 to remain *status quo*?

"(3) Is Section 49-1101 Burns' 1951 Replacement Volume applicable to salaries of all public officials similarly affected?"

Official Opinion No. 61 of 1951 of this office, above referred to, did not take into consideration Section 49-1101 Burns' 1951 Replacement, which statute was considered in above referred to Official Opinion No. 1 of this office for 1952. This statute reads in part as follows:

"The salaries, compensation or *per diem* of public officials or other persons receiving compensation out of the treasury of any county, township, city, town or other political subdivision of the state shall in no case be decreased or diminished by reason of any increase or decrease in the population of any such county, township, city, town or other political subdivision, as announced by the census bureau of the United States government, or by reason of the provisions of any law now in force prescribing and fixing any such salary, compensation or *per diem* on the basis of population * * *."

Chapter 223 of the Acts of 1945, *supra*, as amended by Sections 1, 2, 3 and 4 of Chapter 178 of the Acts of 1949, same being Sections 5-108b *et seq.* Burns' 1951 Supplement, provides as follows:

"Upon the expiration of the terms of the justices of the peace and constables now serving in townships located in counties which townships contain two (2) or more cities of the second class and in townships

located in counties which townships contain a city of the second class having a population of not less than one hundred ten thousand (110,000) nor more than one hundred fifteen thousand (115,000) inhabitants according to the last preceding United States census, there shall be elected or appointed only one (1) justice of the peace and one (1) constable in each of such townships in such counties.

“The salary of the justices of the peace hereafter elected or appointed to serve in any such townships shall be thirty-eight hundred dollars (\$3800) per year. The salary of the constable hereafter elected or appointed to serve in any such townships shall be thirty-four hundred dollars (\$3400) per year which shall include all transportation expenditures. Said salaries herein provided shall be in lieu of any fees of the office of the justice of the peace and constable in such township.

“Upon the expiration of the terms of the justices of the peace and constables now serving in townships in counties which townships contain two (2) or more cities of the second class and in townships located in counties which townships contain a city of the second class having a population of not less than one hundred ten thousand (110,000) nor more than one hundred fifteen thousand (115,000) inhabitants according to the last preceding United States census, there is hereby established and fixed a docket fee which shall be taxed in each civil case filed before said justice of the peace, in the sum of three dollars (\$3.00), which docket fee shall be in full for all costs, fees, service, of process, as is now provided by law. Said docket fee shall be collected by the justice of the peace who shall make due accounting thereof and turn the same over to the township trustee at least every three (3) months in each calendar year.

“Such justice of the peace shall be allowed, in addition to the salary provided for in section 2 (§ 5-108c) hereof, office rent not to exceed the sum of nine hundred dollars (\$900) per year, salary for clerical help not ex-

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ceeding twenty-two hundred dollars (\$2,200) per year and miscellaneous expenses not exceeding the sum of eight hundred dollars (\$800) per year, which expenses herein provided shall be paid by the township trustee, as now provided by law."

Official Opinion No. 1 of 1952 concerned the salaries of county officials in Lake County, Indiana, whose salaries were jeopardized by a change in population under the 1950 United States census. The opinion concludes that incumbents in office whose salaries would be jeopardized by the change in census would have their salaries continued in full force and effect under the statute fixing such salaries in existence at the time of such census.

In order to arrive at our conclusion, we must appreciate that we are confronted with a choice in the application of one statute or another. We find no precedent law which we can consider to be an exact answer to such question. Consequently, we must be guided by our own pre-possessions in arriving at our conclusion. In this light, we must recognize the Constitutional provision which declares that the compensation of those in public office must be graded according to population and services therefor. In such light, it could hardly be logical in the least degree to opine that an elected official serving a certain population within limits expressed in a statute, should deserve a reduction in salary or compensation for such services when, by an official census his services are offered to a greater number of citizens exceeding a limitation expressed in a specific Act.

For these foregoing reasons I, therefore, am of the opinion that the answer to your questions are as follows:

1. Your first question involves consideration of the salaries above fixed for these two offices by Section 2 of Chapter 178 of the Acts of 1949, *supra*, and the allowances for rent and miscellaneous expense of the justice of the peace, as contained in Section 4 of the above quoted statute, together with the transportation expenditures of the constable provided for in Section 2 of said statute.

Since it is necessary for the justice of the peace to provide a court room and various supplies therefor, the maximum amounts allowed for such expenses, including the transporta-

tion expenses of the constable, are so that such activities can be carried out without unduly diminishing the salaries of the two officers referred to.

Since Section 49-1101 Burns' 1951 Replacement, *supra*, prohibits a diminution of salaries, compensation and *per diem* of public officers, including township officers, I am of the opinion the answer to your first question should be that Official Opinion No. 1 of 1952 controls and that this justice of the peace salary and allowance remain in *status quo* during his term of office. If the expenses herein referred to were not provided for, it would itself result in a diminution of such salaries.

2. I assume from your second question that it is directed to the maximum allowance of Section 4 of said statute of not exceeding \$2,200 for clerical help. In my opinion, your second question should be answered in the affirmative for the reasons heretofore given in answer to your first question.

3. Under the specific language used in Official Opinion No. 1 of this office for 1952, *supra*, I am of the opinion your third question should be answered in the affirmative and that Section 49-1101 Burns' 1951 Replacement is applicable to all public officers similarly situated as those referred to in said official opinion.

The fact that this officer took office between the taking of the 1950 United States census and the announcement of the official results thereof would not affect the question, as this matter was fully considered by this office in Official Opinion No. 2 of 1952.