

to charge and collect a fee of \$1.50 per day for the support of patients taken to insane hospitals but if additional expenses were necessarily incurred during the trip such amount as were necessary and actually expended might be lawfully claimed by such sheriff.

I am likewise in accord with the foregoing decisions. My answer to your second question, therefore, is that sheriffs are entitled to be reimbursed for any and all additional expenses necessarily and actually incurred for the prisoner or patient during the trip.

Question Numbered 3, I believe is fully answered by question Numbered 2.

I am not aware of any express statute authorizing a sheriff to be reimbursed for moneys expended for his own meals; nor any expressed or implied statute that the sheriff shall be compensated or paid any additional or *per diem* fee for services as herein set out. It is my opinion therefore, that such expenses would not be considered within the provision of Section 2, *supra*, which provides: "The sheriff shall be entitled to be reimbursed for any other expenses which may lawfully incur other than mileage."

OFFICIAL OPINION NO. 46

May 25, 1951.

Mr. Otto K. Jensen,
State Examiner,
State Board of Accounts,
Room 304, State House,
Indianapolis, Indiana.

Dear Sir:

Your letter of May 1, 1951, has been received requesting an official opinion concerning bonds given by Treasurers of County Boards of Education prior to the enactment of Chapter 164 of the Acts of 1951.

Your specific question is as follows:

"Did liability terminate on all such bonds at the effective date of Chapter 164, Acts 1951?"

OPINION 46

Chapter 164 of the Acts of 1951 contains an emergency clause and became effective when signed by the Governor on March 3, 1951. It recreated county boards of education of the State. Section 1 of said Act in part reads as follows:

“* * * The county board of education shall make decisions as to the general conduct of the schools, which shall be enforced as entered upon the minutes recorded by the secretary of the board. It shall be the duty of the county board of education, through its treasurer, to receive from the State of Indiana, such sums of money as are provided and distributed from the state school tuition fund for teaching units, as provided by law, for those employed by the county board of education, and shall be deemed to fulfill all requirements of a school corporation for receiving such funds from the state school tuition fund. The county treasurer shall be *ex-officio* treasurer of the county board of education, eligible to receive the distribution of funds from the State of Indiana, which funds shall be credited to the county revenue fund as a receipt against the estimated expenditures for the salaries of the school employees, for which distribution was made by the State.

“All authority, rights, powers and duties heretofore performed under the law, by or through meetings or petitions of the trustees of the county, or now enjoyed by county boards of education, are hereby transferred to and vested in the county board of education created by this act. All county boards of education now existing and operating pursuant to the provisions of Section 1, Chapter 156 of the Acts of 1945, as amended by Section 1, Chapter 281 of the Acts of 1947, are hereby confirmed and ratified and their status as such county board of education validated and such board shall continue to so operate in accordance with the provisions of this act and until their successors are elected and qualified.”

According to the above language the county boards of education as composed on the effective date of said Act con-

tinues in existence and are required to continue to operate in accordance with the provisions of the new statute.

It has been held that where an office is created by statute, public officers may exercise only such public powers as are expressly authorized by statute.

Blue v. Beach (1900), 155 Ind. 121, 131;

State *ex rel.* v. Goldthait (1909), 172 Ind. 210, 216, 217;

Chicago etc. Railroad Co. v. Public Service Commission (1943), 221 Ind. 592, 594.

From the foregoing statute and authorities, it is clear that on the effective date of said Act, March 3, 1951, the duties of the former treasurers of county boards of education were abolished and transferred to the county treasurer who would be *ex-officio* treasurer of said board. There would not thereafter be any requirement for a bond as the functions of the treasurers ceased.

I am therefore of the opinion that no further liability could accrue on any such treasurer's bond after March 3, 1951, the effective date of Chapter 164, Acts of 1951. Previously incurred liability would of course continue.

OFFICIAL OPINION NO. 47

May 25, 1951.

Mr. Robert B. Hougham,
Executive Secretary,
Indiana State Teachers'
Retirement Fund,
336 State House,
Indianapolis 4, Indiana.

Dear Mr. Hougham:

Your letter of May 3, 1951, has been received and reads as follows:

"The 1951 act amending the State Teachers' Retirement Fund Law, (Chapter 142, Acts 1951) grants