OPINION 27

Taking into consideration the above quoted definitions of forestry, it is my opinion that the Articles of Incorporation above set out are by virtue of the language emphasized, broad enough to enable this corporation to engage in selective cutting, forestation, and reforestation which practices fall within the hereinbefore mentioned definitions and therefore your question must be answered in the affirmative.

OFFICIAL OPINION NO. 27

April 17, 1950.

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

Dear Sir:

This will acknowledge receipt of your request of March 29, 1950, for an official opinion which reads as follows:

"May I please have your official opinion on the following question:

"Did the rights of members of the active militia to poll tax exemption under the terms of Sec. 22, Chapter 142, Acts of 1923 (Burns 45-1210) end the twenty-four (24) months after the termination of present hostilities?"

"The question has been presented by county auditors and arises by reason of Chapter 2, Acts 1944 (Special Session), Section 1 of which appears to limit poll tax exemption to twenty-four months after the termination of present hostilities and Sec. 9 of which repeals all laws in conflict."

Section 22 of the 1923 Act referred to reads as follows:

"Every officer and enlisted man of the active militia shall be exempt from service on any jury in any court of this state and from the payment of any poll and road-
tax; and in case of any officer, his commission, and of all enlisted men, a certificate of his commanding officer, shall be sufficient evidence that he is so exempt * * * .”

Section 1 of the 1944 Act referred to, reads as follows:

“All members of the active militia of the State of Indiana, by whatever name the same may be designated, for and during the time they may be members thereof, and all persons who have been, now are, or shall hereafter be, members of the armed forces of the United States of America, and receiving pay therefor from the United States Government, are hereby declared to be exempted from the payment of any and all poll-tax assessed for, and during, the time of such service after January 1, 1941, until twenty-four (24) months after the termination of the present hostilities, or until six (6) months after he shall be discharged if discharged prior thereto.” (Our emphasis.)

The President’s Proclamation No. 2714, proclaimed the cessation of hostilities as of 12 o’clock noon, December 31, 1946.

From an examination of the language of the 1944 Act, it appears that the exemption is limited to members of the active militia for and during the time they may be members thereof, “* * * and receiving pay therefor from the United States Government;” also to all members of the armed forces of the United States of America, “and receiving pay therefor from the United States Government.” It is seen that a separate class is defined by limiting members of the active militia to those receiving pay from the United States Government. Such class likewise, is limited to the period of time fixed by the 1944 Act. The members of the active militia who did not receive pay from the United States Government and who are not thus restricted to the period of time fixed by the Act of 1944, are not prohibited by said Act from continuing to claim the exemption provided by the Act of 1923. Since the members of the active militia who do not receive pay from the United States Government are in a class separate from those members who did receive such pay, the acts of 1923 and of 1944 are not in conflict and the Act of 1923 is still in full force and effect.
Therefore, in my opinion, members of the active militia who did not receive pay from the United States Government during the time specified are entitled to the exemption provided by the 1923 Act.

OFFICIAL OPINION NO. 28
April 27, 1950.

Honorable Kenneth M. Kunkel,
Director, Indiana Department Conservation,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter requesting an official opinion concerning the proper disposition of money in the Oil, Gas and Geology fund. The following facts are pertinent:

Chapter 278 of the Acts of 1947 imposed a petroleum severance tax of one percent and provided in Section 27 as follows:

"The monies received by reason of this Act shall be paid by the department into a special fund of the State to be kept by the Treasurer of State and will be known as the Oil, Gas and Geology fund. All monies so paid into said fund shall be devoted to the following purposes upon appropriation made thereof to-wit:

1. To the expenses of administering this Act.
2. To the Oil and Gas Division of the Indiana Department of Conservation.
3. To the Geology Division of the Indiana Department of Conservation for operating expense and research.

"For the biennium beginning July 1, 1947, there is hereby appropriated out of said special fund, to the department the sum of twenty-five thousand dollars for the collection of tax herein provided. For the biennium beginning July 1, 1947, there is hereby appropriated out of said special fund, to the Division of