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titled act, shall be construed as supplemental to the provisions thereof."

This proviso of the Act of 1933 makes its provisions supplemental to the Act of 1932 resulting in incorporating, in the Act of 1932, the right and power under Section 16 and 17 of the Acts of 1933 to issue revenue bonds for extensions and improvements. These supplemental provisions becoming a part of the Act of 1932 makes them subject to the restrictions of said Act. They must be read together so far as possible in construing said Act.

Were it not for the proviso in said Act, the Act of 1933 would have amended and repealed the provisions of the Act of 1932 but since said proviso expressly states that the Act of 1932 shall not be repealed, modified, amended or affected by this act it seems apparent that that the Act of 1932 which requires the approval of the Public Service Commission in the issuance of revenue bonds has not been modified or changed or repealed and is still in effect. In conclusion I am of the opinion that the City of Anderson was required to obtain the approval of the Public Service Commission of Indiana in the issuance and sale of its revenue bonds and therefore was required to pay the fee required by statute for the issuance thereof.

CHJ:ar

OFFICIAL OPINION NO. 82

September 8, 1949.

Mr. Lytle J. Freehafer,
Director of the Budget,
Room 302, State House,
Indianapolis, Indiana.

Dear Sir:

I acknowledge receipt of your request for an official opinion as follows:

"Section 37 of Chapter 279, Acts of 1947, provides for the establishing of an Institution Industries and

Farm Revolving Fund in the amount of \$450,000.00 and says in part—

“The amount so allocated to each institution shall be used by the Superintendent or Warden for the purpose of operating the Industries and Farms allocated to this institution, but shall not be used for the purposes of rents, structures or other capital outlay.”

“I should like to have your official opinion as to whether the term ‘other capital outly’ would preclude the purchase from this Revolving Fund of equipment, either replacement or new equipment, to be used in the operation of the Industries or Farms at the institutions in question.”

A familiar rule of statutory construction is that, where words of specific and limited signification in a statute are followed by general words of more comprehensive import, the general words shall be construed to embrace only such things as are of like kind or class with those designated by the specific words, unless a contrary intention is clearly expressed in the statute.

Yarlott v. Brown, (1922) 192 Ind. 648 at 653,
138 N. E. 17;

McNamara v. The State, (1932) 203 Ind. 596;

Wiggins v. The State, (1908) 172 Ind. 78;

Nichols v. The State, (1891) 127 Ind. 406.

I do not believe that the doctrine of “*ejusdem generis*” is applicable. This rule does not apply when the prior or specific words exhaust the class, for there is nothing of the remaining terms to qualify; and following the rule that all parts of a statute shall, if possible, be given effect, the general words are to be given effect if that can be done, and that the rules shall not be invoked to restrict the operation of the act within narrower limits than the Legislature intended.

Strange v. Board, etc., (1909) 173 Ind. 640;

U. S. Cement v. Cooper, (1909) 172 Ind. 599.

In the case of *Strange v. Board*, *supra*, it was urged that the rule “*ejusdem generis*” should be applied and that the

phrase "other road paving material" should be held to refer to the prior words "stone" or "gravel," and limit the material on country roads to stone or gravel or like material.

The Court disposed of this question in the following language:

"Here the words 'stone' and 'gravel' entirely exhaust each class, and unless the remaining words mean something else, they can mean nothing, which will not be imputed to them, if avoidable, and we place our decision in this respect upon the ground that the phrase 'other paving material' necessarily means something other than either stone or gravel, and that the legislature intended giving to the localities an opportunity to use such materials as were necessary or best suited to the end to be attained."

The word "structure" is one of the broadest words in the English language and is very comprehensive.

Murphy v. Warden of Clinton Prison, D. C. N. Y.
29 Fed. Supp. 486-492;
Lewis v. State, 69 N. E. 680; 59 Ohio 473;
also *Standard Dictionary*.

And the same can be said of the word rent and furthermore under no circumstances can "rents" be considered a capital outlay.

I am informed that what we are specifically dealing here-with is the purchase of one tractor at the Indiana State Prison. I desire to call your attention to two cases from the State of Washington which in my opinion may shed some light on the question herein presented.

The first case, Richardson, *et al.* v. Ostlund, *et al.* (1932), Supreme Court of Washington, 13 Pacific 2nd, page 2, had to do with the expenditure for acquiring right of way of relocation road. It was argued that the acquiring of right of way for this relocation road did not constitute a maintenance expense but was a "capital outlay." There was no proposed "capital outlay" appropriation in the budget. The County Budget Act limited expenditure for the ensuing year as itemized in the Budget and therefore made by the County

Commissioners which expenditures were required to be classified as follows:

- “(1) Salaries and wages
- (2) Maintenance and operation
- (3) Capital outlay
- (4) * * *
- (5) * * *”

The court after stating that the record furnishes some room for arguing that the expenditure for the acquiring of right of way for this relocation road would be “capital outlay” held that it could be regarded as a maintenance expenditure under the circumstances. The court also held that the Commissioners acted in good faith in exercising their discretion in regarding this as a road maintenance expenditure rather than a road capital outlay expenditure. And that the actions of the commissioners were not so clearly wrong as to call for interference by the Court.

The second case, *State, ex rel. Dryden v. Renschler*, County Auditor, Supreme Court of Washington, 19 Pacific 2nd 931, (1933), held that the expenditures for a road grader were not “capital outlay” within the corporate Budget Act requiring provision for capital outlay in Budget where again the Commissioners have failed to set out in the Budget any item for capital outlay; but purchased the grader from the maintenance and operation fund.

Analyzing the case before us we find that:

“The amount so allocated to each institution shall be used by the superintendent or warden for the purpose of operating the industries and farm allocated to his institution * * *”

subject to the limitation that it cannot

“* * * be used for the purposes of rents, structures or other capital outlay, * * *”

In my opinion it was the intent of the Legislature that the Revolving Fund should take care of all of the necessary expenses in operating the farm and that under no condition

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should the moneys be used for the purposes of paying rent, or the construction of new buildings or the purchase of new lands. I am fortified in this opinion by other portions of the statute. It is to be noted:

“* * * all receipts from the sale or other disposition of manufactured or farm products shall be receipted in their respective accounts. At the end of each fiscal year the balance in each of the respective institution industries and farm accounts shall be transferred to the revolving fund created by this section and any amount in excess of Four Hundred and Fifty Thousand Dollars shall be transferred to the State General Fund.”

The section of the Act further specified that:

“Each penal and benevolent institution shall keep complete sets of records showing all transactions in such a manner as to be able to prepare at the end of each fiscal year an operating statement for each separate industry and farm operated at its institution and also a consolidated operating statement. Such operating statement shall show the net income from each industry or farm * * *”

“* * * The expense of operating the industries and farm department of the Division of Public Works and Supply shall be prorated to each of the several penal and benevolent institutions in accordance with the total value of goods manufactured or produced and shall be paid from the industries and farm revolving fund as they accrue.”

Good accounting in arriving at a net income we are compelled to take into consideration depreciation and in doing so we will find therefore in the Revolving Fund money for replacement purposes. It is difficult further to understand how one can operate a farm without a tractor. It is a necessary expense seemingly chargeable against the Revolving Fund. Strictly speaking the purchase of a tractor or other necessary farm implement perhaps would be considered a capital outlay in so far as individuals are concerned especially in income tax matters. Same would not be constituted an

expense although necessary in the carrying out of the business but would be chargeable as a capital outlay. But in the instant case you are dealing with a government agent and the problem before us is not one of income tax but what the Legislature intends by its language.

It is my opinion therefore that the term "capital outlay" would not preclude the purchase from the Revolving Fund of equipment, either the replacement or new equipment that is vital and necessary and to be used in the operation of the Industries or farms at the institutions in question.

FEC:mfl

OFFICIAL OPINION NO. 83

September 9, 1949.

Mr. Charles E. Weeks,
Representative Delaware County,
1419 Kirby Avenue,
Muncie, Indiana.

Dear Sir:

I have your letter of August 22nd which is as follows:

"In answer to your letter of 8-8-49 concerning House Enrolled Act 170 my question is this. Must the city of Muncie furnish all the fire-fighting equipment and uniforms used by the firemen of our city or if they do not wish to do this are they forced to compensate them with a one hundred dollar annual allowance to be used for this purpose.

"Should like an official opinion from your office concerning this question."

Section 1 House Enrolled Act 170 same being Chapter 14 acts of 1949 is as follows:

"All cities having regularly organized and paid police and fire departments shall provide for use by the active members of such police and fire departments of all uniforms, clothing, arms and equipment necessary to