tion of his estate. In the absence of any such authority from the legislature I am of the opinion no such authority exists. Especially is this true where the operation of any such professional business without a license constitutes a violation of the regulatory and penal provisions of the statutes governing such profession.

Casual inspection of the provisions of the statute just quoted reveal that any one who owns or operates a dentistry office or is the manager or conductor of same is practicing dentistry within the meaning of the statute—this is forbidden without a license. It is also to be seen that these people could not contend it was being operated by the new dentist as he is not operating under his name but is operating under the name of another person who is deceased and whose license has expired.

While courts may, pending administration of decedent’s estate, make provisions for the continuity of operations during such period of administration, this would not apply to a profession where the license is personal to the decedent and where the continued operation of the business would in fact be in violation of the penal laws of the state.

From the foregoing I am of the opinion the operation of such business as outlined in your letter constitutes violation of the Dental Practice Act.

OFFICIAL OPINION NO. 74
August 2, 1949.

Mr. Deane E. Walker,
State Superintendent of Public Instruction,
State House,
Indianapolis, Indiana.

Dear Mr. Walker:

Your letter of July 21, 1949, has been received requesting an opinion on the following question:

"Will you kindly give me a ruling as to whether the 1949 act of the Indiana State Legislature concerning
school sites and buildings applies to private and parochial schools or only to the public schools of the state.”

The statute involved is Chapter 170 of the Acts of 1949, Section 1 of which reads as follows:

“In addition to its other powers and duties prescribed by law, the commission on general education of the Indiana State Board of Education shall adopt and promulgate such rules and regulations as it may deem necessary and reasonable concerning the adequacy of all new school sites and buildings or any modification of or addition to existing school buildings as will meet the demands of an efficient and successful educational program for the state and its various communities.”

The Act then provides for a Division of Schoolhouse Planning within the State Department of Education, provides for an appointment of a director, and requires their approval of all new school sites and buildings or any modification of or additions to existing school buildings. It is further provided such rules and regulations of said department shall not conflict with the rules established by the Administrative Building Counsel, the State Board of Health or the State Fire Marshal’s office.

The word “school” is a generic term, denoting an institution or place for instruction or education, or the collective body of instructors and pupils in any such place or institution.

State, ex rel. Johnson v. Boyd (1940), 217 Ind. 348, 365.

In the above mentioned case the question at issue was whether or not parochial schools which had been taken over by the School City of Vincennes cease to be parochial schools. At its special findings of fact the lower court in that case only referred to them as “schools.” The upper court held that in the absence of a designation of such schools in such special findings of fact as parochial schools the special findings would be considered as designating them public schools by the simple use of the word “schools.”
Article 8 of the Constitution of Indiana provides for a free or common or public school system; Section 8, Article 9 of the Constitution of Indiana provides for a Superintendent of Public Instruction whose primary duties are essentially connected with the public school system. The Indiana State Board of Education as created by Chapter 330 of the Acts of 1945 has as its primary function the operation of the public schools of Indiana. Generally speaking their authority is limited to the public schools of the State.

While it is true that teachers in the parochial schools are licensed by the State and they may participate in such advantages as the National School Lunch Program, these conditions are exceptions to the general rule. The general rule is that the word "schools" in a public education statute would not include parochial schools by mere reference to the schools of the State.

As pointed out in Official Opinion No. 26, addressed to you under date of May 6, 1949, it is shown that in construing a statute the court will look to the general purpose and scope of the statute to determine the legislative intent.

City of Indianapolis v. Evans (1940), 216 Ind. 555, 561.

In the above opinion it was held that the word "teacher" as used in the statute prescribing the requirements for the qualifications of a superintendent's certificate meant a teacher in the public school system having the designated number of years of service rather than a like period of service in teaching on a college level.

From the foregoing, I am of the opinion the word "schools" as used in the statute under consideration means a public school of the State and that the only school buildings over which the director of the Division of Schoolhouse Planning may exercise his authority are buildings connected with and a part of the public school system of the State of Indiana and would not include private or parochial schools any more than they would include business colleges or universities.

TLW:ar