other persons either so licensed or employed by such license-holders so licensed and present there."

Said section of said Act further provides and authorizes Funeral Director Licensee to form corporations and requires at all times that one or more persons who are actively engaged as officers or directors thereof shall also be licensed under said Act as Funeral Directors and Embalmers and that at least one thereof shall devote his entire time to such business of the corporation, and also provides that he or some other licensee, as an employee, shall be available in the active conduct of such business for which he is so licensed.

From the foregoing it is very evident, especially when considered in pari materia with the other sections of said statute, that Funeral Directors' Licenses may be issued not only to the owner and operator of the business but to the employees otherwise duly qualified for licensure. The statute makes no requirement for a distinction between such forms of licenses but only requires that the conditions upon which they are issued be fully recorded with the Board and passed on by the Board at the time such Funeral Directing Establishment is approved and such license issued.

In answer to your question numbered four, I am therefore of the opinion only one type of Funeral Directors' Licenses is required to be issued by the Board but that it should be issued for the purpose of carrying on such business at a designated place of business.

TLW:man

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OFFICIAL OPINION NO. 97


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

Dear Sir:

I have your letter of July 14, 1949 requesting an official opinion on the following question:
"Does Chapter 228, Acts 1949 meet the requirements of Section 19, Article 4 of the Constitution of Indiana and is said act valid?"

Section 19, Article 4 of the Constitution of Indiana is as follows:

"Every act shall embrace but one subject and matters properly connected therewith; which subject shall be expressed in the title. But if any subject shall be embraced in an act, which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be expressed in the title."

It is apparent that your question involves the proper interpretation of the title to the act in question as well as the matter involved in the body of the act. The title to the act of Chapter 228 of 1949 is as follows:

"AN ACT providing for the issuance of building permits by county assessors, the use of such permits in assessing or re-assessing property and providing penalties for the violation thereof."

In reading this title I am of the opinion that one would expect an act relating to the issuance of building permits by a county assessor, however, Section 1 in the body of the act makes no such provision but refers to the filing of a permit to be issued by "the proper building inspector." The first part of section 1 of said act is as follows:

"Any person proposing to construct or repair any building, the cost of which construction or repair shall be more than one thousand dollars, shall, before commencing such work, file with the county assessor of the county in which such construction or repairing is to be done a building permit, issued by the proper building inspector."

The history of the act shows that House Bill No. 306 which contains the title to the act quoted above was introduced in the House of Representatives and passed the House as written, after it had been referred to and reported favorably by the
committee of Judiciary A. When the bill reached the Senate it appears to have been changed in the respects referred to above so that it was no longer an act for the issuance of building permits by county assessors, but was an act providing for the issuance of building permits by "proper building inspectors." It is noted that the proper building inspectors is not in any way identified. The question of the sufficiency of a title of an act has been before the Supreme Court of Indiana on many occasions and it has been held: "the title of an act must be sufficiently explicit to apprise members of the legislature of the matters embraced in the bill." Kleihege v. State of Indiana (1934), 206 Ind. 206.

Did the title of this bill inform the legislative body that it was a bill for the issuance of a building permit by a building inspector and the filing thereof with the county assessor? If it did not, the title is insufficient. It has been held also by the court: "Where the title of an act is limited the body of the act must come within the limitation." State ex rel. Milligan, Superintendent of Madison State Hospital v. Ritter's Estate, 221 Ind. 456.

The title of this bill seems to limit the issuance of building permits by the county assessor, the bill itself provides otherwise.

The Constitution provides that every bill shall embrace but one subject and matters connected therewith and it has been held that the subject of a legislative act is the thing about which the legislations is had. De Haven v. South Bend, 212 Ind. 194.

It seems to appear that the subject of the legislation here was the issuance of building permits by county assessors and not the issuance of such permits by some other authority, then the filing of such a permit with the county assessor.

It is true that the duty of selecting the title of an act belongs to the General Assembly and the courts are following a liberal rule and will not condemn an act because the subject might have been more specifically expressed in the title, State ex rel. Taylor v. Green Circuit Court, 223 Ind. 562, and if the title of the act expresses the general purpose of the act it is sufficient.

I do not believe that the title of the act sufficiently expresses its purpose and that said title does not cover the body of the
act and, therefore, my answer to your question is that the act is invalid and void as not containing sufficient title, such as required in the constitutional section referred to.

As to your last suggestion that the act is unworkable because of the absence of a specific performance to apply to the assessor for a permit when a proper building inspector is non-existent and the other suggestions contained in that paragraph is answered by what I heretofore said about the constitutionality of the act. It will not therefore be necessary for me to comment on that part of your letter.

CHJ:aa

OFFICIAL OPINION NO. 98

October 10, 1949.

Mr. Alvan A. Sauer,
Superintendent Northern Indiana Childrens Hospital,
South Bend, Indiana.

Dear Sir:

I have your request for an official opinion which reads as follows:

"The Board of Trustees in its meeting of September 14 requests an opinion in regards to the relationship of one of its members serving as a member of the Board and receiving his $300.00 annual stipend as well as being appointed to the Active Staff and also receiving a yearly stipend for his services.

"Is it the usual custom and would he be acting within the laws of the State of Indiana by serving on the Board and the Staff and receive remuneration from both sources?"

Perhaps the first question to be considered is whether two (2) lucrative offices as provided by Article 2 of Section 9 of the Constitution of Indiana are involved. The pertinent parts of that provision are as follows: