

to exist as an incident to such reorganization of the school system, such cancellation would result from a valid exercise of the police power of the State.

In reaching the foregoing conclusion, the following authorities have also been considered:

Harris v. State ex rel. (1937), 212 Ind. 386;
 Ehle, Trustee v. State ex rel. (1921), 191 Ind.
 502;
 1943 Ind. OAG 687;
 1943 Ind. OAG 540;
 1941 Ind. OAG 154;
 1938 Ind. OAG 295.

4. In answer to your fourth question I am of the opinion tenure status cannot be acquired in the county unit system of schools after its establishment due to the provisions of Section 4 of said act, *supra*, which specifically provides "the provisions of Chapter 97 of the Acts of 1927 which prescribe the manner by which a teacher may become a permanent teacher with an indefinite contract shall not be effective with reference to the employment of teachers in any county school corporation created in this act."

OFFICIAL OPINION NO. 42

July 28, 1947.

Hon. F. W. Quackenbush,
 State Chemist and Seed Commissioner,
 Purdue University Agricultural Experiment Station,
 Lafayette, Indiana.

Dear Sir:

Your letter of July 25, 1947, has been received requesting an official opinion as to the authority of the State Seed Commissioner to delete from the Noxious Weed Seed List a weed (wild carrot) which was not specifically included in the published notice for hearing by your Board on July 22.

If I understand the question presented you have held your public hearing on July 22 at which time it was generally agreed wild carrot could be deleted from the noxious list; that

you have not yet adopted your final rule on this question under Chapter 120 of the Acts of 1945.

Wild carrot is listed as a "secondary noxious weed seed" under Section 15-802 Burns' 1945 Supplement, same being Section 2, Chapter 210, Acts 1941. This same section authorizes the State Seed Commissioner to add or subtract from a list of weed seeds included in the foregoing definitions whenever he finds after public hearing that such additions or subtractions should be made. It is further provided by said section that twelve (12) months' notice shall be given the seed trade price to the effective date of any addition to or elimination from said Noxious Weed Seed Lists.

Your rules are being formulated in compliance with the foregoing statute as well as pursuant to the provisions of Chapter 120 of the Acts of 1945. This latter statute provides in general for proposed rules to be adopted by the board and then a notice for publication in the newspaper. On this latter question Section 4 of said Act provides in part as follows:

** * * Said notice shall include a statement of the time and place of said hearing, a reference to the subject-matter of the proposed rule or rules and refer to the fact that a copy of said proposed rule or rules is on file at the office of said agency where it may be examined: Provided, however, That no rule shall be invalid because the reference to the subject-matter thereof in said notice may be inadequate or insufficient. * * *

"On the date set for hearing any interested party in person or by attorney shall be afforded an adequate opportunity to participate in the formulation of the proposed rule or rules through the presentation of facts or argument or the submission of written data (data) or views. *All relevant matter presented* shall be given full consideration by the agency." (Our emphasis).

An examination of the notice of publication made by you regarding these rules after the "proposed rules" had been adopted, gives notice that pursuant to the foregoing laws

the State Seed Commissioner of Indiana has prepared a new proposed rule, numbered 6 concerning the following subject: "Additions and subtractions from the noxious weed seed lists." Then follows a statement it is proposed to add certain seeds to the list and certain subtractions from the list. In the specified seeds considered for subtraction from the list you do not specify wild carrot in either the proposed rules or the legal publication of notice.

However, I am of the opinion your notice is somewhat general that as such hearing you proposed adopting a rule "concerning * * * additions and subtractions from the noxious seed lists." This is sufficient on final hearing, following said public hearing, for you to adopt additions or subtractions, other than those specified, as long as they are to effect the noxious weed seed lists. This is true for the very reason that the public hearing, and the final hearing for adoption of such proposed rules is to afford the adopting agency the opportunity to make additions or corrections other than those incorporated in the original proposed rules, so long as they are made within the general purview of the published notice given.

It is further pointed out the above quoted provision of Section 4 of Chapter 120 of the Acts of 1945 specifically provides that no rule shall be invalid because of reference to the subject matter being inadequate or insufficient.

From the foregoing I am of the opinion that on your final meeting for adoption of rule 6 you may include in the exemption from the Noxious Weed Seed Lists the weed "wild carrot".

OFFICIAL OPINION NO. 43

July 29, 1947.

Hon. C. E. Ruston,
State Board of Accounts,
State House,
Indianapolis, Indiana.

Dear Mr. Ruston:

I have your letter of March 10 addressed to this office which is as follows: