

made, has expended funds and incurred obligations in the amount of more than \$19,000, including the obligation to give tuition free to those residents of Hendricks County who have already enrolled with that understanding. During none of this time has it been a religious or sectarian school.

It is my opinion that to the extent that said college acting by its present and past Board of Trustees has expended or incurred liabilities against said fund raised by said tax levy and to the extent that it may expend or properly incur such obligations up to the time the control of said school passes to the new Board of Trustees, that it will be legal for the Auditor to draw his warrant for such sums to the proper officer of said college, and that this would not be the drawing of money from the treasury for the benefit of a religious or theological institution in violation of the constitutional provision or the 1945 Act.

OFFICIAL OPINION NO. 66

July 8, 1946.

Hon. William C. Stalnaker, Director,
Department of Veterans' Affairs,
431 North Meridian Street,
Indianapolis 4, Indiana.

Dear Sir:

Your letter of July 1, 1946, received requesting an official opinion on the following questions:

"1. Is the widow of a soldier who served in World War I and who was killed in action during his service in World War II entitled to the \$1,000.00 exemption on property tax?

"2. Would the widow of a soldier who served in World War I and who was killed in action during his service in World War II be entitled to \$2,000.00 exemption property tax? Would the death of the soldier be construed as the same as a 100 percent service connected disability?

Section 64-205 Burns' 1943 Replacement, same being Section 1, Chapter 175, Acts 1927, provides as follows:

“Any honorably discharged soldier, sailor, marine or nurse who shall have served ninety (90) days or more in the military or naval forces of the United States, and who is totally disabled as evidenced by pension certificate or the award of compensation, and the widow of any such soldier, sailor or marine, may have the amount of one thousand dollars (\$1,000) deducted from his or her taxable property, providing the amount of taxable property as shown by the tax duplicate shall not exceed the amount of five thousand dollars (\$5,000), and the amount remaining after such deduction shall have been made shall constitute the basis for assessment and taxation: Provided, further, That the age of sixty-two (62) shall constitute the basis of total disability for any pensioner.”

Section 64-223 Burns' 1943 Replacement, same being Section 1, Chapter 95, Acts 1941, provides as follows:

“Any honorably discharged soldier, sailor, marine or nurse who shall have served in the military or naval forces of the United States between the dates of April 6, 1917, and November 11, 1918, and who was disabled with service-connected disability of ten (10) per cent or more, as evidenced by a letter or certificate from the Veterans' Administration, or its successor, and the widow of any such soldier, sailor or marine, shall have the amount of one thousand dollars (\$1,000) deducted from his or her taxable property: Provided, That this said exemption shall not bar recipient thereof from receiving benefits from any other exemption, or exemptions which he or she may be entitled to under the laws of the state of Indiana.”

Section 59-1007a Burns' 1945 Supplement, same being Section 1, Chapter 254, Acts 1943 as amended by Section 1, Chapter 141, Acts 1945 provides as follows:

“All persons who have served, or are now serving, or who may hereafter serve as a part of the armed forces of the United States in the present war with

Germany, Italy, Japan, or any of its allies, and any person who served in the active military or naval service on or after September 16, 1940 and prior to the termination of the present war, *and who shall have been discharged or released therefrom under conditions other than dishonorable*, and the wives, widows, and children of such persons heretofore mentioned, who are residents of the state of Indiana, shall have and are hereby given all the rights and privileges now held and enjoyed by soldiers, sailors, nurses and/or other veterans, their wives, widows, and children, of the First World War, under existing statutes or under any statute which may hereafter be enacted." (Our emphasis).

In an official opinion of this office appearing in 1941 Indiana O.A.G., page 73, it was held a person qualifying for the exemptions authorized by Sections 64-205 and 64-223 Burns' 1943 Replacement, *supra*, was entitled to a one thousand dollar exemption under each of said statutes or a total exemption of two thousand dollars.

The above opinion was affirmed when construed in *pari materia* with Section 59-1007a Burns' 1945 Supplement, *supra*, in 1945 Indiana O.A.G., page 323, Official Opinion No. 80, where it was held the benefits of said statutes would apply to honorably discharged veterans of World War II.

An examination of the provisions of Section 59-1007a Burns' 1945 Supplement, *supra*, shows that any statute giving benefits to such veterans or their wives, widows or children shall accrue to any person "who shall have been discharged *or released* therefrom under conditions other than dishonorable."

Courts will look to the general purpose and scope of a statute to determine the legislative intent.

City of Indianapolis v. Evans (1940), 216 Ind.
555, 567;

State *ex rel.* Bailey v. Webb (1939), 215 Ind.
609, 612.

When each of the foregoing statutes are so construed in *pari materia* with each other I am of the opinion a member

of the military forces of World War II who was killed while in service has been honorably discharged from such service with a one hundred per cent service connected disability. To require a formal honorable discharge in such a case would be to require the performance of a futile act. A soldier killed while in active service or on the battle field has been "released" from such service under the most honorable conditions.

Any other construction would in fact ascribe to the Legislature an intent to give to the widow of a deceased soldier who had been discharged with a ten per cent disability or a total disability prior to his death, the benefits of said statute while withholding such benefits from the widow of a soldier who made the supreme sacrifice and died in action. Such a construction would be absurd and would not do justice to the clear intent of the Legislature in the enactment of the foregoing statutes.

In answer to each of your questions I am therefore of the opinion the widow of a member of the armed forces of the United States in World War II who was killed or who died while in such service is entitled to an exemption of taxable property in the amount of \$1,000.00 under Section 64-205 Burns' 1943 Supplement and to a like exemption of one thousand dollars under the provisions of Section 64-223 Burns' 1943 Replacement, providing she meets the other requirements of said statutes. In such event such deceased veteran would be deemed to have been honorably discharged from such service.

OFFICIAL OPINION NO. 67

July 9, 1946.

Hon. G. E. Botkin,
State Veterinarian,
209-210 State House,
Indianapolis 4, Indiana.

Dear Sir:

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