

such laboratory, to be paid out of funds appropriated for the administration of the Indiana State Live Stock Sanitary Board, and the provisions of Section 16 of Chapter 174, appropriating \$25,000.00 to the Indiana State Live Stock Sanitary Board for expenses of administration, I can see no objection to the use by the Live Stock Sanitary Board of such funds for operating and maintenance expenses of the laboratory, provided that such expenditures are made on a voucher approved by the Indiana State Live Stock Sanitary Board.

I am, therefore, of the opinion that the Live Stock Sanitary Board may legally allocate part of the \$25,000.00 appropriated by Section 16 of Chapter 174 of the Acts of 1945 to the payment of expenses incurred by the animal diseases laboratory at Purdue University in making Bang's disease tests of blood samples submitted, under Section 8 of that Act.

OFFICIAL OPINION NO. 68

July 16, 1946.

Hon. Clement T. Malan,
State Superintendent of Public Instruction,
State House,
Indianapolis, Indiana.

Dear Doctor Malan:

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

“Do the words, ‘tax levy,’ as used in the 1945 Acts of the State Legislature, Chapter 102, provide the legal basis for the State Board of Education certifying to the fact that the affidavited admission of Trustee John M. Carmichael, as stated above, is good and sufficient evidence that ‘said relief corporation has failed to qualify because of “tax levy.”’ ”

In your letter you quoted the following affidavit filed with you, stating the reason for the failure to make a sufficient tax levy for this purpose:

“I hereby certify that I was unaware of the tax limitation of 75c as the maximum levy in the special school

fund at the time when the budget was made as required by law. After publication, it was cut by the Adjustment Board, and I was unable to raise it. It was because of this fact that the total qualifying rate of \$1.00 was not finally levied."

Section 28-919 Burns' 1945 Supplement, same being Sec. 1, Chapter 102, Acts 1945, provides in part as follows:

"* * * Provided, however, That where it appears from the statement filed with the department of education that any school corporation has failed to meet the qualifying rate, and whenever, after investigation by the state board of education, it shall be determined by the board, that said relief corporation *has failed to qualify because of clerical error, omission in the budget, tax levy*, report or any publication made pursuant to law, said state board of education may nevertheless certify any such school relief corporation for reimbursement at a chargeable rate equal to the chargeable rate plus the deficiency in the qualifying rate. The auditor of state shall at once draw a warrant on the treasurer of state payable out of the state school tuition fund created in this act, in favor of said township, town, or city payable to the trustee of such township or treasurer of such school town or city and mail the same to him: Provided, That the total amount so allocated and paid under the provisions of this section shall not exceed the sum of money derived from the receipts of the seven cent (7c) property tax rate and levy, and the fifty cents (50c) poll tax levy referred to in section 2 (§ 28-913) of this act in any one school year: Provided further, The equipment and expense charges incident to the administration of the provisions of this act, including the expense of audit of claims by the state board of accounts, shall be a charge to and be paid from the state school tuition fund created by this act, out of the amount allocated to payments made under the provisions of this section." (Our emphasis).

Where a statute is free from ambiguity there is no room for judicial construction by court.

State v. Squibb (1908), 170 Ind. 488;

State v. Mutual Life Insurance Co. (1910), 175 Ind. 59;

Williams v. Michigan City (1934), 100 Ind. App. 136.

Since the above language of the statute is clear and free from any ambiguity the same is not subject to judicial construction and authorizes the State Department of Education, after investigation by the Board, to certify said school corporation for reimbursement on the grounds there was an "omission in the tax levy." Such payment, of course would be subject to the limitations provided in said statute.

OFFICIAL OPINION NO. 69

July 17, 1946.

Hon. J. P. Davey, O. D.,
 Secretary, Indiana State Board of
 Registration and Examination of Optometry,
 405 Kahn Building,
 Indianapolis, Indiana.

Dear Sir:

Your recent letter received in which you request an official opinion on the following questions:

"First, is the fitting of contact lenses a part of the practice of optometry under the definition; and second, can anyone other than optomterists or those exempt practice the fitting of contact lenses in the State of Indiana?"

Your questions are predicated upon the following statement of facts:

"There has recently come into a certain degree of popularity the fitting and wearing of lenses which rest directly upon the sclera corneal junction of the