as well as that part of Clause (b) of said section which prohibits an examination for the purpose of "adopting optical, physiological and psychological measures and/or the furnishing or providing any prosthetic or therapeutic devices for the emendation thereof."

However, I am further of the opinion that since an optometrist in this state has not been granted the authority to administer narcotic drugs that he would not be permitted to anesthetize the eye for the purpose of fitting such contact lenses.

Of course the optometry statute does not authorize the use of surgery for the affixing of such contact lenses which would be prohibited by the Medical Practice Act, same being Section 63-1301 et seq. Burns' 1943 Replacement.

(2.) In answer to your second question I wish to advise it is clear under the provisions of Section 63-1006 Burns' 1943 Replacement, supra, the only persons exempt from the application of the optometry statute are "physicians and surgeons who are authorized to practice medicine, surgery and obstetrics under the laws of the state of Indiana." Those persons, of course, have an unlimited license to practice such profession. Other than those specifically exempt from the statute, optometrists would be the only other persons who could legally engage in such practice of fitting such contact lenses which practice would be qualified as pointed out in answer to your question number one.

OFFICIAL OPINION NO. 70

Public Service Commission of Indiana,
State House,
Indianapolis, Indiana.

Gentlemen:

I have your letter of July 11, 1946, stating that the Legislature of 1911 passed a law requiring that all steam railroads in the State of Indiana have automatic block signals in operation or an approved form of other type of block signals in effect on each line of the railroad not later than January 1, 1912. You further state that the C. H. & D. Railroad, now
the Baltimore & Ohio Railroad, during the year 1911 secured an order from the Railroad Commission granting them permission to operate a line known as the Decatur Subdivision without any form of block system being in effect.

The question now arising is whether an order issued by a former Railroad Commission of Indiana under date of August 3, 1911, would be sufficient for the Baltimore & Ohio Railroad to continue to operate said Decatur Subdivision without block signals unless an additional order is issued by the Commission.

The statute relative to the installation of block signals by railroads was passed in 1907. The law as originally passed was so indefinite that actions could not be maintained under it to recover penalties. The amendment of 1911 made the law sufficiently specific and certain.

Railroad Commission v. Grand Trunk Western R. Co., 179 Ind. 255, 100 N. E. 852.

The pertinent portion of the statute, exclusive of penalty provisions, is found in Sec. 55-1254 and 55-1255 of Burns' 1933 R. S. and reads as follows:

"After the first day of January, 1912, it shall be unlawful for any person, firm or corporation, or lessee or receiver of any person, firm or corporation, which shall own or operate any line of steam or interurban railroad in this state to operate any train or car over such railroad by steam, by electric power, or other power, unless such railroad is equipped with and has in operation an automatic block system or other system approved by the railroad commission of Indiana for the control of train or car movements thereon, unless the time therefor be extended by such railroad commission.

"Power and authority are hereby conferred upon the railroad commission of Indiana to extend the time specified in section one (§ 55-1254) of this act, when it shall be made to appear to it that reasonable necessity for such extension shall exist. Full power and authority are also hereby conferred upon such commission to relieve any such carrier from the obligations
imposed by section one (§ 55-1254) of this act when it shall be made to appear that the volume of traffic or train or car movement over such railroad are (is) such only that the same can be dispatched without substantial hazard to life and property over a line not so protected. Full power and authority are also hereby conferred upon such commission to permit, authorize and order in place of the automatic block, either a controlled manual block, or a manual block, or a dispatcher's block, or any other form of block or other signaling system that is or may be hereafter devised or used, if, in the judgment of such commission, it shall be made to appear that a controlled manual block, or a manual block, or a dispatcher's block, or any other form of block or other signaling system now or hereafter devised or used shall reasonably conserve the safety of life and property, and whenever such order is made by the railroad commission, and such other form of block or other signaling system is installed, operated and maintained in obedience to such order, it shall be taken and held as a full compliance with this act."

The block system statute as amended was approved by the Governor March 4, 1911, and became law through publication of the Acts on April 21, 1911. In August of the same year, the Railroad Commission considered the application submitted by the C. H. & D. Railroad requesting to be relieved from the provisions of the law and issued the following order:

"In the above matter, it appearing to the Commission that the volume of traffic over said branches of said Railroad Company are such that the same can be dispatched without substantial hazard to life and property without block signals, upon consideration.

"IT IS ORDERED, that the said Cincinnati, Hamilton & Dayton Railroad Company is hereby relieved from installing block signals on said branches of its said railroad.

"IT IS FURTHER ORDERED, that the Secretary of the Railroad Commission of Indiana transmit a copy
of this order to the General Superintendent of said Railroad Company."

In order to comply with the block system statute, it is apparent a railroad would either have to begin installation of a proper block system prior to January 1, 1912 or fail to have same ready for use on or before that date. A failure to have the system in effect would have created a penal liability of $1,000.00 per week. Any railroad desirous of operating without the block system would necessarily request an order releasing them from said obligation a considerable period before the panel date of the Act. Otherwise, an adverse ruling would place them in the position of being unable to comply with the law on that date.

In view of these facts, it would be only reasonable to infer that the order of the Commission, dated August 3, 1911, was drawn for the purpose of relieving the C. H. & D. Railroad of the necessity of installing a block system. This presumption is strengthened by the fact the order was issued subsequent to April 21, 1911, at which time the amended block system law was in full force and effect and of which fact the Commission was undoubtedly fully aware.

The Railroad Commission was abolished by the Legislature in 1913 and its functions transferred to the Public Service Commission. The Public Service Commission as then established was abolished and recreated in 1933, the new commission in turn sustaining a similar change-over in 1941. In all of these instances, the rights, powers and duties of the abolished Commission were transferred to the newly created ones by specific statutory provisions. The validity of an order issued by the Railroad Commission was attacked in one case subsequent to the abolishment of the Railroad Commission. The effect of the abolishment of the Railroad Commission on the validity of the order was not questioned, and the order was given full force and effect by the Supreme Court of Indiana.

Vandalia R. Co. v. Public Service Commission, 185 Ind. 652; 114 N. E. 412.

It is, therefore, my opinion that the order of the Railroad Commission, dated August 3, 1911, is in force and will remain
in force until rescinded or modified by the Public Service Com-
mmission or by law. Whether a rescission or modification of
said order is indicated by a change of conditions occurring
since its issuance is for the good judgment of the Commission.

OFFICIAL OPINION NO. 71

July 23, 1946.

Hon. Joe McCord, Director,
Department of Financial Institutions,
State House,
Indianapolis, Indiana.

Dear Sir:

I have your inquiry of July 3rd which reads as follows:

"The question has been raised as to the investment
limit of state chartered banking institutions, under
Section 173 of The Indiana Financial Institutions Act,
in bonds issued by the Trustees of Indiana and Purdue
Universities.

"Both universities contemplate building programs
which will necessitate the issuance and sale of substan-
tial amounts in mortgage bonds in connection with
each unit, or building. The bonds will be self liquidat-
ing from fees and operations, or a combination of
both. Building programs have been financed in this
manner in the past and each institution has bonds of
this type outstanding at the present time. Indiana
University also has some building bonds outstanding
which were issued as general obligations.

"The Department, in its supervision of banking
institutions, has held that the limitation with respect
to investments as imposed by Section 173 of The Indi-
ania Financial Institutions Act, applied to the total
holdings of securities issued by each university. Those
interested in the sale of such securities feel that this
interpretation of the Act is in error and that banking
institutions should be permitted to invest to the legal
limit either in each issue or in each class of securities."