

OFFICIAL OPINION NO. 63

July 12, 1945.

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

Dear Sir:

Your letter with reference to shipping costs for your office reads as follows:

"I should like your official opinion as to whether the Purdue Agricultural Experiment Station or the State Chemist and Seed Commissioner in furnishing official tags under the Indiana Feeding Stuffs Control Law, Indiana Fertilizer Control Law or Indiana Seed Control Law may legally pay the postage or express charges on such shipments of tags.

"At the present time, the purchaser of tags pays the transportation cost. We are considering the possibility of prepaying these costs out of the fees sent in by the purchaser of tags."

The Indiana Feeding Stuffs Control Law is Section 16-1001 *et seq.* Burns' 1933, same being Chapter 206, Acts 1907 as amended, the Indiana Fertilizer Control Law is Section 15-1001 *et seq.* Burns' 1933, same being Chapter 51, Acts 1881, as amended; the Indiana Seed Control Law is Section 15-801 *et seq.* Burns' 1933, same being Chapter 28, Acts 1921.

Under each of the aforesaid Acts purchase and use of the tags are required, under certain conditions, before a sale of such products. On this question under the Indiana Feeding Stuffs Control Law see Section 16-1002 Burns' 1933 and Section 16-1003 Burns' 1943 Supplement; as to the Indiana Fertilizer Control Law see Section 15-1002 to Section 15-1005 Burns' 1933; as to the Indiana Seed Control Law see Section 15-812 Burns' 1933.

Under the provisions of each of the foregoing Acts the money received is required to be paid into the state treasury and the designated administrating officer is authorized to draw on said state fund, through the Auditor of State, for the

necessary expenses in carrying out the provisions of said Acts. On this question as to the Indiana Feeding Stuffs Control Law see Section 16-1005 Burns' 1933; as to the Indiana Fertilizer Control Law see Section 15-1005 Burns' 1933; and as to the Indiana Seed Control Law see Section 15-813 Burns' 1933.

Under each of said statutes the administering officers charged with the enforcement thereof are given powers to carry out the intents and purposes of said Acts. Said Acts are silent as to whether or not postage shall be prepaid by the state administrative officer, or shall be charged in addition to the prescribed purchase price for the tags or labels.

However, we are not without the benefit of other statutory authority on the question.

Chapter 186 of the Acts of the General Assembly of 1945, being the Biennial Appropriation Act, due to an emergency clause became effective when signed by the Governor on March 7, 1945. Section 1 of said Act provides in part as follows:

"The term 'all other operating expenses' wherever used in this Act shall be construed to include all payments made for * * * postage * * *."

I am therefore of the opinion the administrative officers of the state charged with the enforcement and payment of the expenses incurred in the operation of said Acts may determine for themselves as a matter of administrative policy whether or not such postage shall be prepaid by the state, or whether such postage shall be collected in addition to the purchase price received for the tags or labels.

OFFICIAL OPINION NO. 64

July 13, 1945.

Hon. Milton Matter, Director,
Indiana Department of Conservation,
Indianapolis 9, Indiana.

Dear Sir:

I acknowledge receipt of your letter of June 5, 1945, as follows: