

several separate courses as long as such courses meet the requirements of said statute.

I am therefore of the opinion a school of beauty culture may conduct one (1) class of not more than eight (8) hours in the day time and also conduct for other pupils a similar class in the evening without violating the provisions of the beauty culture law.

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OFFICIAL OPINION NO. 68

July 18, 1945.

Hon. Ralph F. Gates, Governor,  
State of Indiana,  
State House,  
Indianapolis 4, Indiana.

My dear Governor:

I have your letter of June 16th, in which you enclose the original contract entered into for the architectural work for the World War Memorial, dated April 14, 1923, also copy of supplemental contract for architectural work entered into March 15, 1927, together with copy of minutes of the meeting of the Board of Trustees April 19, 1923. In your letter you asked for an official opinion as to whether these contracts bind the State of Indiana or the World War Memorial Commission to continue to have the architectural work done by the firm of architects at Cleveland, Ohio. The question evidently relates to architectural work contemplated by Chapter 204 of the Acts of the 1945 General Assembly.

It is provided by Section 3 of Article 10 of the Indiana Constitution that "No money shall be drawn from the treasury but in pursuance of appropriations made by law." The contract first mentioned above, of the date of April 19, 1923, was entered into between trustees of the Indiana World War Memorial and the firm of Walker and Weeks of Cleveland, Ohio, under and pursuant to an Act of the Legislature of Indiana known as Chapter 50, Special Session 1920, page 174. This Act created a board of trustees known as "Trustees of the Indiana World War Memorial." The power of said board of trustees is set forth in Section 6 of said Act (Sec. 59-207

Burns' R. S. 1943 Replacement). Clause 6 of the said section deals particularly with the submitting of designs, plans and specifications and the employment of architects. It provides for publication of notices that the board would receive plans and specifications to be submitted by architects. It provides for the offering of premiums to insure adequate compensation. Said section contains the following language:

“\* \* \* Said board of trustees shall not adopt any design, plan or specifications, the cost of which and all expenses incident to the erection of such structures will exceed the amount herein appropriated.”

Again in said section it is provided:

“If said board of trustees shall find the specifications and estimates correct, and that the designs, plans and specifications, or any of them, can be constructed within the limits of costs aforesaid, \* \* \* said board of trustees may select the most meritorious of such designs, plans and specifications, and notify the successful architect thereof, \* \* \*.”

Again in Section 8 of said Act it is provided for changes in the designs, plans and specifications in pursuance of the work, “provided no change shall be made which will increase the aggregate cost of such Indiana World War Memorial structures so as to exceed the cost herein prescribed, \* \* \*.” Section 14 of said Act appropriated the sum of two million dollars (\$2,000,000). The last sentence of this Section is as follows:

“\* \* \* All contracts made for any purpose under the provisions of this act and all expenses incurred in the erection and completion of such structures, shall not exceed the total sum appropriated therefor.”

It is thus apparent that the Legislature by this Act was careful to limit the power of said board of trustees to contracting for plans and designs for structures which would not exceed in cost the amount appropriated, that is, two million dollars (\$2,000,000). It was careful to limit the power of the board in the making of contracts under the provisions of the Act

that all of them should not exceed said sum of two million dollars (\$2,000,000).

In 1922 the board of trustees for the Indiana World War Memorial caused to be printed and published a "program" dealing with "competition for the selection of an architect to design and supervise the construction of the Indiana World War Memorial." On page 1 of this pamphlet it was set out that this was a program of competition for the selection of an architect to supervise the construction of the World War Memorial erected under the provisions of Chapter 50 of the Special Session of 1920, "and with funds provided thereby." Page 8 of this pamphlet shows that a copy of the Indiana World War Memorial Law was made an exhibit to the program. This was followed by a statement by the board of trustees. In this statement the law under which the contract is being awarded for structures built is referred to in several places and on page 11 appears the following statement:

"\* \* \* The Trustees' powers are limited by the Law and to the present Memorial contemplated therein, yet in their architect they must strive to find a planner with sufficient foresight to make of the present Memorial a proper part of the future development of the site and the city. With this in view, they have advised drawing the program so as to bring out these qualities of the competitors in their competitive showings, but in doing so, *they wish to be clearly understood as creating no obligations on the part of the State to protect the designers in those portions of their submissions that go beyond the Memorial proper as covered by the Indiana World War Memorial Law.* Their status with reference to future work in this connection must be left to the intelligence and fairmindedness of future Boards and authorities. \* \* \*." (Our emphasis.)

It is my opinion from the foregoing that the authority of the board of trustees of the Indiana World War Memorial in relation to the making of contracts with architects under the provisions of the Act of 1920 was limited to the making of a contract or plans, specifications and supervision of structures the total cost of which was not to exceed the amount appropriated by that Act, that is two million dollars. In addition

it was clearly pointed out in the statement of the trustees, above referred to, that any part of the plans and specifications submitted which went beyond the memorial proper, as covered by the World War Memorial Law, created no obligation on the part of the state and that the status with reference to future work would have to be left to future boards and authorities, so I do not see how any of the architects submitting plans and specifications, including the one whose submission was accepted, could have been misled or believed that the state was incurring any obligation beyond that of architectural services for building structures to cost all inclusive not to exceed two million dollars. I have examined the contract which was entered into by the board of trustees of the World War Memorial and the firm of Walker and Weeks, April 19, 1923 and I do not believe there is anything in this contract which by its language attempts to bind the state beyond the building to be built under the appropriation in the 1920 Act, but even if there were such language in the agreement it would be beyond the power of the board of trustees executing the contract to bind the state beyond architectural services for the erection of structures within the amount appropriated.

Statutory public officers have only that power and authority given them and all persons dealing with state officers exercising statutory power are bound to know the authority of such officers.

Julian v. State, 122 Ind. 68, 73 to 78;

Julian v. State, 140 Ind. 581, 584;

Hord v. State, 167 Ind. 622, 631 to 633;

Ness v. Board of Commissioners, 178 Ind. 221, 225, 226;

Railroad School Township v. First State Bank, 73 Ind. App. 358, 365, 366.

Thereafter structures were built and the entire two million dollars appropriation was used and exhausted. Chapter 102, page 273 of the Acts of 1925 amended the appropriation section of the 1920 law by extending the period of time the tax levy should continue and appropriated the money raised by such levy to the erection of structures as a part of the memorial. It was in connection with this that the supplemental contract of 1927 was made. At the time said supplemental

contract was made there had been no amendment made to the 1920 Act or additional law passed changing or adding to the power of the board of trustees relative to their power to contract with or employ architects. The apparent purpose of said supplemental agreement was to extend the 1923 contract to cover the plans, designs and architectural services in connection with the building to be done under the additional appropriation made by the 1925 Act. I am informed that approximately two million dollars additional funds was raised prior to the 1925 Act and that said sum was all expended.

The 1945 session of the General Assembly (Enrolled H. B. No. 150, Chapter 204 of the Acts of 1945) appropriated two and one-half million dollars out of the general fund in the state treasury to be expended in the construction and erection of additional structure or structures on the site of the Indiana World War Memorial. "In accordance with plans and specifications heretofore or hereafter adopted by the trustees of the Indiana World War Memorial.", with the approval of the Governor, to any competent or reliable contract or contractors. I further point out that the appropriation made by this Act is contingent "upon action by the American Legion provided for continuance of the establishment of its national headquarters at the site of the Indiana World War Memorial of the city of Indianapolis." (Section 4.) It is further provided by said Act that none of the money appropriated by said Act "shall be spent or obligated until and unless said board of trustees shall submit detailed estimates and/or request therefor to the Governor and the State Budget Committee and shall receive their approval thereof in writing," (Section 2).

Consequently before any valid obligation can be incurred to be paid out of the funds appropriated by the 1945 Act there must be: first, action by the American Legion complying with Section 4, above referred to, and second, the board of trustees must submit estimates and requests to the Governor and State Budget Committee and receive their approval in writing.

Under the foregoing it is my opinion that the contracts for architectural work submitted with your letter and above referred to, are not binding upon the State of Indiana or the Board of Trustees of the Indiana World War Memorial, in connection with the erection of any additional building which

may be erected under the provisions of Chapter 204 of the Acts of 1945.

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OFFICIAL OPINION NO. 69

July 20, 1945.

Hon. Clarence E. Ruston, State Examiner,  
State Board of Accounts,  
State House,  
Indianapolis 4, Indiana.

Dear Sir :

This will acknowledge receipt of the request from your department for an official opinion on the following question:

Is the salary received by the county treasurer for services rendered as *ex officio* city treasurer to be considered as a part of the compensation of the county treasurer under the limitation of the ten thousand dollars in any one year, as provided by Chapter 192, Acts of 1945?

Chapter 192 of the Acts of 1945 contained an emergency clause and was in full force and effect on March 8, 1945, when signed by the Governor, and provides in part as follows:

“The county treasurers of the state shall receive as their property, in addition to the salary herein provided, six per cent of delinquent taxes collected on personal property and poll taxes during each calendar year and they shall also be entitled to charge and collect as their personal property, subject to the limitations hereinafter made, a demand fee of fifty cents from tax delinquents where collections result from personal demands: *Provided*, That the aggregate of all salaries, demand fees, and percentages of delinquent tax collections as herein provided for and so received by any treasurer, may not exceed ten thousand dollars in any county in any one year, it being the intention of this act to restrict each county treasurer of the state to a total compensation of ten thousand dollars in any one year for all services rendered by him: