

of the Executive Committee. *It shall have general authority to function and act for the Commission between meetings of the Commission and shall have such powers and authority as are expressly conferred by law or as may be delegated to it, from time to time, by the Commission.*" (Our emphasis.)

I assume from your letter that no power or authority has been conferred upon the executive committee by the commission to act in connection with either of the resolutions in question. In view of the fact that, as above pointed out, whatever sovereign power was conferred by the Legislature by this Act, was conferred upon the commission; Section 5 gives the commission authority to delegate such powers and authority as may be legally delegated by the commission to the executive committee. At least in the absence of such express delegation, action of the executive committee between meetings of the commission would be subject to approval or disapproval of the commission at its next regular or special meeting. The second resolution, above referred to, seems to involve a question of policy and under the provisions of the Act such questions are to be determined by the commission.

In answer to your second question, it is my opinion that this resolution should either be approved or disapproved at the next meeting of the commission and that in the absence of approval by the commission it is not binding upon it.

OFFICIAL OPINION NO. 106

September 21, 1945.

Hon. Beecher Conrad,
Member House of Representatives,
State of Indiana,
Petersburg, Indiana.

Dear Sir:

Your letter of September 10, 1945 has been received in which you request an official opinion on the following questions:

1. Are war veterans entitled to be furnished free of charge certified copies of any public record, including discharge certificates, to be used in procuring or establishing a claim with the United States Veteran's Bureau?

2. Are such veterans entitled to have other instruments in writing certified and attested without charge by certain county officials when such instruments are to be used by such veterans in the procuring or establishing of a claim with the United States Veteran's Bureau?

Section 8-514 Burns' 1933, same being Section 14, Chapter 69, Acts of 1931 reads as follows:

"Whenever a copy of any public record is required by the bureau to be used in determining the eligibility of any person to participate in benefits made available by such bureau, the official charged with the custody of such public record shall, without charge, provide the applicant for such benefits, or any person acting on his behalf, or the representative of such bureau, with a certified copy of such record."

Under Section 1 of said act the word "bureau" is defined to mean "United States Veterans Bureau, or its successor."

Section 59-1001 Burns' 1943 Replacement, same being Section 1, Chapter 12, Acts 1897, provides as follows:

"All clerks of circuit courts, county auditors and county recorders shall administer oaths, affix jurats and attestations and the seal of their respective office to any and all instruments in writing necessary for the procurement or drawing of any pension, bounty, back pay or prize money, for any and all soldiers, seamen, their widows or orphans, free of charge."

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

"That 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."

The last quoted statute has been construed by this office to give to all persons who are now serving in the Armed Forces of the United States in the present war and from September 16, 1940, and to the wives, widows and children of such persons the same benefits 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. This would make the beneficial provisions of Section 8-514 Burns' 1933 and 59-1001 Burns' 1943 Replacement, *supra*, applicable to veterans of the present war as well as to honorably discharged veterans of prior wars. See 1945 Indiana O. A. G. No. 66; 1943 Indiana O. A. G. Page 451 and 1943 Indiana O. A. G. Page 500.

A public officer takes such office *cum onere* not only as to existing duties, but subject to such as may thereafter be legally imposed. In the case of *State ex rel. v. Duncan*, 175 Ind. 661, on page 663, the Supreme Court of Indiana says:

"It is settled that in the absence of constitutional restriction, the legislature may at its pleasure increase or diminish the duties of public officers. *Gilbert v. Board*, etc. (1846), 8 Blackf. 81; *Turpen v. Board*, etc. (1855), 7 Ind. 172, 173; *Walker v. Dunham* (1861), 17 Ind. 483, 485; *Yeager v. Board*, etc. (1884), 95 Ind. 427, 430, and cases cited; *Bynum v. Board*, etc. (1885), 100 Ind. 90, 91; *Sudbury v. Board*, etc. (1901), 157 Ind. 446, 456.

“As was said in *Yeager v. Board, etc., supra*, at page 430: “The person who accepts and assumes to act in the office takes it *cum onere*, not only of existing duties, but subject to such as may thereafter be legally imposed, and subject to such rights and liabilities as to compensation as the legislature has (declared) or may declare. If the legislature imposes burdensome or unremunerative duties, he must perform (them) as required or resign the office.” ’ ’ ”

Section 8-514 Burns' 1933 and Section 59-1001 Burns 1943 Supplement, *supra*, are subject to the well recognized rule of statutory construction that when a statute is free from ambiguity, there is no room for judicial construction by court.

State v. Squibb (1908), 170 Ind. 488, 84 N. E. 969;

Kunkalman v. Gibson (1908), 171 Ind. 503, 84 N. E. 985, 86 N. E. 850;

State v. Mutual Life Ins. Co. (1910), 175 Ind. 59, 93 N. E. 213, 42 L. R. A. (N. S.) 256;

Kirkpatrick v. Van Cleave (1909), 44 Ind. App. 629, 89 N. E. 913;

Indiana Union Trac. Co. v. Gough (1913), 54 Ind. App. 438, 102 N. E. 453;

Cain v. Staley Mfg. Co. (1933), 97 Ind. App. 235, 186 N. E. 265;

Williams v. Michigan City (1934), 100 Ind. App. 136, 192 N. E. 103.

Said statutes are in my opinion free from ambiguity and mean exactly what they say and there is no reason or authority for making any construction of the plain terms and provisions thereof. A public officer charged with these duties should follow the law.

1. In answer to your first question, I am therefore of the opinion that whenever a copy of any public record is required by any person or his representative, or by the United States Veteran's Bureau or its successor, for the purpose of determining the eligibility of any veteran to participate in benefits made available by such Bureau, that the official charged with the custody of such records is required,

without charge, to provide such applicant or his representative, or such Bureau, with a certified copy of such record.

2. In answer to your second question, I am of the opinion that all clerks of Circuit Courts, County Auditors and County Records are required to administer oaths, affix jurats and attestations and the seals of their respective office, free of charge, to any and all instruments in writing necessary for the procurement and drawing of any pension, bounty, back pay or prize money, for any and all soldiers, seamen, their widows or orphans.

I am further of the opinion that the answers set out to your questions numbered one and two are equally applicable to veterans of World War II.

OFFICIAL OPINION NO. 107

September 24, 1945.

Hon. Forrest V. Carmichael, Executive Secretary,
Indiana State Teachers' Retirement Fund Board,
334 State House,
Indianapolis, Indiana.

Dear Sir:

I have your letter dated September 17, 1945 concerning Chapter 328 of the Acts of the Indiana General Assembly for the year 1945. In your letter you ask an official opinion upon the following question:

“Was it the intention of the Legislature to include ‘other educational employment as defined and approved in each case by the Board’ in the list of instances wherein the restriction of ‘one (1) year in seven (7)’ shall apply, or was it the legislative intent to set it apart from the four categories originally listed in the law upon which the restriction ‘one (1) year in seven (7)’ was made directly to apply, thus permitting the Board to exercise discretion in approving more than one year in seven of such employment.”

The answer to your question depends upon a construction of Chapter 328 of the Acts of the Indiana General Assembly