

OFFICIAL OPINION NO. 113

October 10, 1945.

Hon. G. E. Botkin, State Veterinarian,
Room 209, State House,
Indianapolis 4, Indiana.

Dear Sir:

Your letter of September 17, 1945, has been received in which you request an official opinion as to whether or not a person owing allegiance to the German government at the time he took his examination before the Veterinary Examining Board in 1943, is still an "alien enemy" within the meaning of that term as contained in a rule of your board prohibiting the issuance of a veterinarian's license to an alien enemy. The occasion for the request being due to the cessation of hostilities.

Under Title 50, Section 21, U. S. C. A., same being the Act of Congress of April 16, 1918, being R. S. Section 4067, c. 55, 40 Stat. 531, it is provided:

"Whenever there is a declared war between the United States and any foreign nation or government, or any invasion or predatory incursion is perpetrated, attempted, or threatened against the territory of the United States by any foreign nation or government, and the President makes public proclamation of the event, all natives, citizens, denizens, or subjects of the hostile nation or government, being of the age of fourteen years and upward, who shall be within the United States and not actually naturalized, shall be liable to be apprehended, restrained, secured, and removed as alien enemies. The President is authorized, in any such event, by his proclamation thereof, or other public act, to direct the conduct to be observed, on the part of the United States, toward the aliens who become so liable; the manner and degree of the restraint to which they shall be subject and in what cases, and upon what security their residence shall be permitted, and to provide for the removal of those who, not being permitted to reside within the United States, refuse or neglect to depart therefrom; and to establish any other regula-

tions which are found necessary in the premises and for the public safety."

Pursuant to the above Act of Congress the President of the United States by his proclamation number 2526, dated December 8, 1941, declared, "* * * that an invasion or predatory incursion is threatened upon the territory of the United States by Germany." Said proclamation further termed as "alien enemies" all natives, citizens, denizens or subjects of Germany being of the age of fourteen (14) years and upward who shall be within the United States or within any territories in any way subject to the jurisdiction of the United States, who are not naturalized. (55 Stat. 1705 *et seq.*)

So far as I have been able to determine the above proclamation has not been rescinded.

In an official opinion of this office being Official Opinion No. 103, 1945 Indiana O. A. G., it was held the cessation of hostilities did not officially end the war and that the war would not officially and legally be over until the proper constituted authorities of the nations involved officially declare the end of World War II.

I am therefore of the opinion an applicant for a veterinarian's license who was an alien enemy in 1943 due to his being a German subject, is still an alien enemy within the meaning of the above referred to rule of the Veterinary Examining Board.

OFFICIAL OPINION NO. 114

October 11, 1945.

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

My Dear Governor:

Your letter has been received requesting an official opinion on the following questions:

1. Can a county which has surrendered its common school funds to the State obtain a return of such funds,