

Legislation, both federal and state, also anticipates and provides for post-war work in highway building and the Legislature evidently anticipated the possibility of an expansion of the program of the Highway Commission. Acts 1945, Ch. 298.

I think the provision of the Act of 1897 (Sec. 61-207, Burns' R. S. 1933) and the provisions of the 1945 Appropriation Act should be construed together and harmonized if possible. This result is possible, I think, by adhering to the definitions and classifications as made in the Appropriation Act; and that is to say the payments for the service itemized in your questions are chargeable to the miscellaneous fund. If changed conditions should develop that threaten a depletion of that fund, the remedy would be to make a proper showing by way of petition to the Budget Committee for a transfer to the miscellaneous fund of a sufficient amount from the construction fund. In the event of a proper showing, the favorable action of the Budget Committee would thus constitute the amount transferred a part of the miscellaneous fund. The result would harmonize the provisions of the statute on the subject and also meet the objection that federal reimbursements for expenditures for the service in planning are credited to the construction fund.

With this explanation, I, therefore, answer each of your questions in the negative.

OFFICIAL OPINION NO. 130

December 11, 1945.

Hon. Fern E. Norris, Reporter,
Supreme and Appellate Courts,
State House,
Indianapolis, Indiana.

Dear Mrs. Norris:

I have your letter of October 27, 1945, in which you ask for my opinion as follows:

"Dean Henry B. Witham of the Indianapolis Center (Indiana University School of Law) has requested sets

of Indiana Supreme Court Reports, Volumes 1 through 220, inclusive; Indiana Appellate Court Reports, Volumes 1 to 113, inclusive; also Blackford Reports.

"May I have an official opinion from you as to whether this office is to furnish, free of charge, Reports to the Indiana Law School Extension Center." (Parentheses mine.)

Subsequently, in your letter of October 29, 1945, it is pointed out that a portion of the volumes requested by the evening division of the Indiana University School of Law consists of reprinted volumes.

Section 7 of Chapter 170, page 389 of the Acts of 1891, as amended (49-1622 Burns' 1933 R. S.) provides for a distribution of the Supreme and Appellate Court reports as follows:

"The secretary of state is hereby authorized to distribute the Indiana Supreme and the Indiana Appellate Court reports without charge as follows: * * * to the Indiana University School of Law such number of reports as may be needed by such school of law, either to supply its own needs or to exchange for the reports of other states; * * *."

The language used in that Section requires no construction. It is clear that the Indiana University School of Law is entitled to whatever number of reports "may be needed." Since the evening division of the Indiana University School of Law is a part of the law school itself, it is immaterial whether the volumes requested are for the Bloomington campus or the Indianapolis campus.

However, in my opinion to the Reporter of the Supreme and Appellate Courts of July 23, 1943 (1943 O. A. G. 472) it was stated that Section 7, as amended, in providing for free distribution of Supreme and Appellate Court reports to various libraries and institutions applied only to the original printing of the reports and not to reprints thereof. It was further stated that no provision was found in the law for free distribution of reprints. The same conclusion was reached in my opinion to you of March 27, 1945. It is therefore my opinion that the Indiana University School of Law,

for either campus is entitled to such number of reports as it may need of the original printing of any volumes free of charge. However, as to the reprinted volumes of any set, you have no alternative under the present law, other than to make a charge therefor. Since it does not appear from your letter that any of the volumes requested are for replacement purposes, I have not considered free distribution of original printings as replacements.

OFFICIAL OPINION NO. 131

December 14, 1945.

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

My dear Governor:

I have your letter of November 30 as follows:

“A question has arisen as to the commissioner of weights and measures of the state. I would like to have your official opinion as to whether, under the present laws, there is such an office as commissioner of weights and measures of the state, and, if so, how such an office is filled. If such an office is filled by appointment, by whom is the appointment made?”

In an effort to determine what the present situation is, I have reviewed the various statutes in an effort to trace the origin and present status of the office of Commissioner of Weights and Measures. The Legislature of 1905 passed an Act establishing a state laboratory of hygiene as a department of the State Board of Health. This laboratory was to be devoted to the analysis of foods and drugs for the public benefit. Section 3 of this Act, which is Chapter 38 of the Acts of 1905 (Burns' Indiana Statutes 35-303) reads in part as follows:

“For the conduct of the state laboratory of hygiene, the state board of health shall employ and appoint a