have allowed it under section 13, 1.R. S. 1876, p. 352, which authorizes them to allow all accounts chargeable against the county.”

Under Section 26-620 Burns' 1933 Supplement, the county commissioners have power to make allowances to the county sheriff for the feeding of prisoners in an amount not to exceed thirty cents (30c) per meal for counties with a population of less than three hundred thousand (300,000), and therefore it is my opinion, in answer to your second question, that between March 10, 1943, and July 1, 1943, the amount to be paid the sheriff for the feeding of prisoners in counties of less than three hundred thousand (300,000) population should be fixed, determined and allowed by the county commissioners in each county in a sum not to exceed thirty cents (30c) per meal.


Mr. H. M. Wright, Chief,
Bureau of Vital Statistics,
Indiana State Board of Health,
1098 West Michigan Street,
Indianapolis, Indiana.

April 2, 1943.

Dear Sir:

I have before me your letter of March 25, 1943, in which you request an official opinion as to the constitutionality and applicability of Senate Bill No. 12, passed at the recent session of the Legislature and which will be known as Chapter 306 of the Acts of 1943.

This Act is an Act entitled:

"AN ACT to amend section 1 of an act entitled 'An act to amend section one (1), two (2), and three (3) of an act entitled "An act to collect accurate records of deaths, births, contagious diseases and marriages, prescribing the duties of the state board of health and of all health officers, in relation thereto, providing penalties for the violation of the provisions
of this act, and repealing all acts in conflict,” approved March 9, 1907;’ approved March 14, 1913.”

It will be observed from the body of the Act, however, that all reference to said act being amendatory of some previous act is absent. In view of that fact, Sections 19 and 21 of Article 4 of the Constitution of Indiana are applicable. Section 19, Article 4, provides as follows:

“Every act shall embrace but one subject and matters properly connected therewith; which subject shall be expressed in the title. But if any subject shall be embraced in an act, which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be expressed in the title.”

Section 21 of Article 4 bears upon the subject as to how acts are to be amended and provides as follows:

“No act shall ever be revised or amended by mere reference to its title; but the act revised, or section amended, shall be set forth and published at full length.”

The question with which I am confronted is as to whether this Act, together with its title, has met the requirements of the constitution. I call your attention to the case of Wayne Township v. Brown, 205 Ind. 437, wherein a similar question is considered and which points out certain lines of distinction which are important in this case. The title in that case reads as follows:

“An Act to amend section 1 and the title of an Act entitled ‘An Act to amend sections 1 and 2 of an Act entitled “An Act authorizing the borrowing of money by boards of commissioners of counties in Indiana to pay claims incurred and filed with such boards by township trustees for relief of the poor, which claims are in excess of appropriations and tax levies made therefor, and where such counties have no funds with which to pay said claims, and for the payment of claims incurred and filed by trustees of townships for relief of the poor where appropriations and tax levies
for such purpose have been exhausted, or are in danger of being exhausted, and requiring townships to levy a tax to repay such counties for any such funds so borrowed for either or both of such purposes, and declaring an emergency,” approved March 6, 1931,’ approved August 16, 1932, and providing for the borrowing of money by such boards of commissioners in anticipation of claims to be incurred and filed by trustees of townships for relief of the poor, and declaring an emergency.”

Section 1 of that Act in part reads as follows:

“Section 1. Be it enacted by the General Assembly of the State of Indiana, that the boards of commissioners of any county of any state * * *.”

It will be noted in that case, like this case, Section 1 did not contain words appropriate to an amendment of some previous section. The Court, however, held in that case that, by omitting certain parts of the title, there was still left enough to serve as a title for original legislation, the Court holding that that part which refers to the legislation being amendatory should be regarded as surplusage and the Act sustained as original legislation. In this case, however, nothing of that kind could possibly be done. If all of the title having reference to amending some previous act is omitted, there is nothing left upon which to base any kind of legislation. It should be remembered that the Court in the case of Wayne Township v. Brown, supra, sustained that legislation, not as amendatory, but as original legislation upon the basis that by rejecting parts of the title having to do with amendment of a previous Act, there was yet left a sufficient title to sustain the legislation. However, in this case, if I strike out the part of the title having to do with amending some previous Act, there is left only the words, “An Act to,” which clearly is insufficient for any purpose. The Court in the Wayne Township case, supra, had no difficulty in determining that so much of the title as indicated an amendment was insufficient to support the act as amendatory legislation in view of the fact that the body of the Act did not purport to be amendatory, saying on page 453:
"Under the above sections" (sections 19 and 21 of article 4) "the Act cannot be held to be an amendment."

In the present case, unless the Act is an amendment, it is nothing, since there is no title which could possibly sustain it as original legislation. Since the body of the Act in this case must be regarded as original legislation, and since the title is appropriate for only an amendment, it is apparent that the subject of the Act is not expressed in the title as required by Section 19 of Article 4 of the Indiana Constitution, and in my opinion the Act is invalid.

You also refer to Senate Bill No. 74, which will be known as Chapter 218 of the Acts of 1943. This Act purports to be original legislation, contains a title appropriate for original legislation, and if the Act is embraced in the title, which I think it is, no objection could be made to its title. It went into effect upon passage by virtue of a declared emergency as set out in Section 12. In the absence of any particular objections, in my opinion the Act is valid.

BOARD OF ACCOUNTS: Compensation of judges in certain cases involved in returning to bench to rule on a motion for a new trial after expiration of term of office.

April 2, 1943.

Hon. Otto K. Jensen,
State Examiner,
Dept. of Inspection and Supervision of Public Offices,
Indianapolis, Indiana.

Dear Mr. Jensen:

I have your letter of the 30th in which you request an official opinion upon the following question:

"1. Is the former judge of a court who presided at the trial of a cause, entitled to receive compensation for services rendered in such cause after the expiration of his term in office, in ruling on a motion for a new trial?"