Therefore, I am of the opinion that the state department of public welfare and the various county departments of public welfare are authorized to release of record any liens which have been held void in County Department of Public Welfare, et al. v. Potthoff (Ind.), 44 N. E. (2d) 494, supra.


April 8, 1943.

Hon. Clement T. Malan,
State Superintendent of Public Instruction,
State House,
Indianapolis, Indiana.

Dear Mr. Malan:

I am in receipt of your letter of March 31, 1943 requesting my opinion relative to the interpretation to be placed on rhetorical paragraph 3 of Section 5, Chapter 263 of the Acts of 1943 which reads as follows:

"The State Board of Education shall also determine by uniform rule, applicable throughout the state, when and if the services of full time principals and supervisors shall be deemed to constitute units under this Act."

There are certain firmly established rules of statutory construction which must be followed in construing a statute or any part thereof. One of these rules applicable to the above language is that in construing a statute the court must first seek to ascertain the legislative intent in enacting the statute and for that purpose must consider all parts of a statute and all the language employed therein; the circumstances under which the statute was enacted; the prior statutes upon the same or related subjects; the evils and mischiefs sought to be remedied, and if such intention can be ascertained, the same must control and be given full force and effect, even though there may be inaccuracies or mistakes in verbiage or phraseology or omissions in the statute as written. See State v. Markey, 212 Ind. 59; W. H. Dreves, Inc. v. Oslo School,
etc., 217 Ind. 388; Haynes, etc., v. City of Kokomo, 186 Ind. on 13. Also that in construing a statute the Court is not always bound by the strict literal meaning of words used, if a strict adherence to the letter would lead to absurdity, injustice or contradict the evident intent of the Legislature. City of Indianapolis v. Evans, 216 Ind. 555.

Applying the above rules to the provisions of Chapter 263 of the Acts of 1943, we find that it is an act creating the State School Tuition Fund and prescribing the manner of the distribution of such funds and repealing all laws and parts of laws in conflict therewith. This act is commonly known as the State Aid Act for the public schools of the state, and is intended to provide a fair, uniform and practical system whereby the State of Indiana may grant financial assistance in the maintenance of the public schools in various parts of the state by the payment of a part of the salary of the teachers and other operating expenses of such schools. Section 9 of Chapter 263 expressly repeals Chapter 96 of The Acts of 1933, Burns’ R. S. 1933, Sec. 28-1001, 28-1007 which pertains to the same subject. An examination of Chapter 96 of the Acts of 1933, page 670 discloses that in Section 2 of said Act, Burns’ R. S. 1933, Sec. 28-1002, the Legislature provided that state aid granted to the public schools should be based upon the number of licensed instructors, who are employed and engaged in the work of instruction in the public schools of the state. The concluding sentence of Section 2 of said Chapter 96 of the Acts of 1933 reads as follows:

“The term ‘persons engaged in the work of instruction’ and the term ‘instructor’ shall include only those persons who are actually engaged in the conduct of regular classes of instruction in the schools.”

Section 3 of said Act, Burns’ R. S. 1933, Sec. 28-1003 provided that the amount of aid which any school corporation might receive from the state was based upon one instructor to a certain number of children in certain grades of the public schools. By the provisions of Section 3 of Chapter 263 of the Acts of 1943 we find that the Legislature changed the basis of the amount of state aid from the number of instructors to what is designated as a unit; and that for every unit in grades one (1) to twelve (12) of the public schools,
for which at least one legally licensed instructor is employed and engaged in the work of instruction in such grades, the employing school corporation shall be paid an amount equal to eighty per centum of the average minimum salaries of the instructors of such corporation computed upon the basis of an eight (8) months term. In Section 4 of said Chapter 263 of the Acts of 1943 the Legislature defined certain terms as follows:

"Except as herein otherwise provided the term, 'persons engaged in the work of instruction,' and the term, 'instructor,' shall include those persons legally licensed as teachers who are employed full time on the uniform teachers contract as prescribed by law for a minimum term of eight (8) months and who receive at least the minimum salary provided by the teachers' minimum salary law or by salary schedule not less remunerative adopted by the trustee, or board of education of the city, town, county or township concerned."

In Section 5 of said Chapter 263 of the Acts of 1943 the Legislature defined the number of units for which a public school corporation may qualify for state aid as provided in the Act. In the first eight (8) grades there shall be a unit for each thirty-five (35) persons in average daily attendance in any one school corporation and for grades nine (9) to twelve (12) inclusive there shall be one unit for each twenty-five (25) persons in daily average attendance.

Considering all of the provisions of Chapter 263 of the Acts of 1943, as well as the provisions of Chapter 96 of the Acts of 1933 which are repealed and superseded by Chapter 263 of the Acts of 1943, it is apparent that the Legislature intended to change the basis upon which state aid to the public school corporations of the state should be granted as well as to increase the amount of such state aid. It is further apparent that the Legislature intended that under certain conditions as might be established and determined by the State Board of Education that a full time principal or supervisor employed in any of the public school corporations of the state might be considered and included as an instructor along with the other teachers and instructors, provided such principal or supervisor was a legally licensed teacher employed
under a full time uniform teachers contract as provided in Section 4 of said Chapter 263. Further it appears that the Legislature intended that any rule adopted by the State Board of Education to include a principal or supervisor as an instructor in any school corporation for the purpose of receiving state aid must be of uniform application throughout the state and that the State Board of Education could not adopt a rule which would permit a principal or supervisor to be included as an instructor for the purpose of receiving state aid in one school corporation in the state and not include such a principal or supervisor as instructors in determining the basis for state aid in other school corporations of the state, where similar conditions exist.

Therefore it is my opinion that the language quoted in your letter and heretofore set forth in this opinion must be construed as if it read as follows:

"The State Board of Education shall also determine by uniform rule, applicable throughout the state, when and if the services of full time principals and supervisors shall be deemed to be included in units under this Act."

Such a construction is one which renders the entire statute fair, uniform, reasonable and effectual as applied to all teachers employed in the public schools, including principals and supervisors and gives full force and effect to all language contained in the Act; whereas, any other interpretation would defeat the evident purpose and intention of the legislature in employing the language quoted in your letter and render the same meaningless when considered in connection with the other language and provisions of the Act and would result in absurdity and contradiction. Armstrong, Adm. v. State ex rel. (1919), 72 Ind. App. 303-317; Brown-Kitcham, etc., v. Geo. B. Swift Co. (1913), 53 Ind. App. 630-652; City of Indianapolis v. Evans, 216 Ind. 555.