STATE BOARD OF ACCOUNTS: Whether township trustees performing the duties of township assessors who are in office on the effective date of Chapter 157 of the Acts of 1943 are entitled to the compensation therein provided during their present term.

April 21, 1943.

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

Dear Mr. Jensen:

This will acknowledge receipt of your letter of April 16, 1943, asking my opinion as to the interpretation of Chapter 157 of the Acts of 1943. Your question reads as follows:

"1. Are the township trustees performing the duties of township assessors in townships of five thousand population or less, who are in office on the effective date of Chapter 157 of the Acts of 1943, entitled to receive the compensation as therein provided, during their present term of office?"

In answering your question I call your attention to the following language contained in Chapter 157 of the Acts of 1943 as follows, to-wit:

"* * * and for their services in performing the duties of the said township assessors of such townships, said township trustees shall receive as compensation therefor for the time actually employed in the performance of said duties, such sum as the advisory board of such township shall determine to be paid to such trustee from the township fund of such township, * * * not exceeding the sum of three hundred and twenty-five dollars for any one year."

In view of the above language it is my opinion that it was the intention of the legislature to provide a per diem basis for the payment to the township trustees for the extra services required in performing the duties of the township assessors of such township and that the amount to be paid to such trustee depended upon the exact amount of time required in performing such duties.
It is well established by the decisions of the courts of last resort that the legislature has the right to provide compensation for the various officers either upon an annual salary basis or upon a per diem basis and that there is a well-defined legal distinction between a salary and a per diem compensation for additional services rendered.

Cowden v. Huff, 10 Ind. 83;
Benedict v. U. S., 176 U. S. 357;
State ex rel Ward v. Henry, Ala., 139 Southern 278.

Applying the above rule to the specific language contained in Chapter 157, Acts of 1943, it is my opinion that township trustees performing the duties of township assessors in townships of five thousand population or less, who are in office on the effective date of Chapter 157, Acts of 1943, are entitled to receive the compensation as therein provided during their present term of office. It is further my opinion that such allowances upon a per diem basis for the services rendered in performing the duties of township assessors in such townships does not violate the provisions of Section 2 of Article 15 of the Constitution of Indiana.

STATE BOARD OF ACCOUNTS: Sheriff,—Compensation to which sheriff is entitled for removing a prisoner from one county to another.

SHERIFF: Compensation to which sheriff is entitled for returning a fugitive from another state.

SHERIFF: Compensation payable to sheriff when the prisoner waives the issuance of an extradition warrant.

April 21, 1943.

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

Dear Mr. Jensen:

I am in receipt of your letter of April 15, 1943, requesting my opinion as to the compensation which a sheriff is entitled