peared that the hospital grounds had been acquired by the State for hospital use, and the hospital and grounds were under the control of a Board of Directors and Managers. The Writ for a Mandate was asked upon authority of an Act which reserved to the State for sale, on a rental and royalty basis, all mineral deposits "on land belonging to the State." The Supreme Court of California ruled that this oil leasing Act concerning the mineral under State land did not apply to the hospital lands. The court pointed out that the oil leasing Act expressly mentioned among other special lands "river beds, overflowed and submerged land," and said:

"We cannot see that these provisions concerning lands held by the state by virtue of its sovereignty, and its public lands offered for sale under its public land laws, shed any light upon the question as to whether or not the statute was intended to apply to lands already devoted to a public use."

McNeil v. Kingsbury, 213 Pac. 50.

There is no question, of course, but that the State legislature could authorize the granting of a permit or lease for oil well purposes on the grounds of the Evansville Hospital, but in my opinion no existing statute grants that right.

DEPARTMENT OF FINANCIAL INSTITUTIONS: Building and Loan Associations. Whether rural associations may differentiate between its shares of common stock in the matter of payment of dividends.

June 12, 1943.

Department of Financial Institutions,
Hon. H. B. Robb, Supervisor,
Building and Loan Division,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter relative to the right of a named rural loan and savings association to declare and pay dividends upon its Class A and B Common Shares at a different rate
for each of said classes and further as to Class B Shares at a rate which varies as the number of shares increase or decrease. Your specific questions are:

"1. May this association differentiate in the payment of dividends on their Class A and B Common Shares.

"2. Is it possible for this association to pay dividends on their Class B shares in the following manner: 2½% on the first $5,000; 1½% on that amount between $5,000 and $10,000 and no dividend whatsoever on that amount over $10,000.

Class A and Class B Common Shares are investment shares and should not be confused with the guaranty shares. A sample copy of Common B Shares is as follows:

No.----------
CERTIFICATE OF INSTALLMENT INVESTMENT STOCK, COMMON "B" RURAL LOAN AND SAVINGS ASSOCIATION of Hartford City, Indiana
Incorporated Under the Laws of the State of Indiana

THIS CERTIFIES THAT---------------------------
is the owner of one fully paid and non-assessable share of INSTALLMENT INVESTMENT STOCK, COMMON "B", of the par value of one hundred dollars, of the capital stock of the RURAL LOAN AND SAVINGS ASSOCIATION of Hartford City, Indiana, for each one hundred dollars credited on the attached pass book and on the books of the Association. All credits in excess of one hundred dollar units represent payments on the purchase of an additional share. Any share credited with less than one hundred dollars shall be deemed partially paid for to the extent of such credits. All such shares, fully and partially paid for, are transferable in person or by duly authorized attorney on the books of the Association.

All shares of stock of the Association are issued and held subject to and upon the terms, conditions, limitations and restrictions set forth in the by-laws of the Association. A summary thereof is printed on
the reverse of this certificate and made a part hereof. By accepting this pass book and this certificate and
the shares represented thereby, the holder agrees to
be bound by all provisions of the Articles of Incorpora-
tion and By-Laws of the Association and all future
amendments thereto.

Dated at Hartford City, Indiana, this —— day of
———, 19——.

President

Secretary

SEAL

As far as Class A Shares are concerned, as I understand it, there is no difference in the certificates and that the above
copy with the letter B stricken out and the letter A inserted
would correctly represent a Class A Share. There is also
furnished a copy of the by-laws of the association. Section 1
of Article IV reads as follows:

"STOCK. All stock shall be evidenced by Certifi-
cates as provided for by the Board of Directors and
the issuance thereof and the receipts and disburse-
ments thereof shall be pursuant to law and limited in
amount according to the articles of association and
amendments thereto. It shall consist of guaranty
shares (the original organization stock), Investment
Shares, Class A and B Stock and Borrowing shares,
Class C Stock. Investment Shares, Class A, formerly
issued subject to the payment of a membership fee,
was discontinued approximately 15 years ago as to
further issuance but such stock already issued shall be
continued.

"Investment Shares, Class B, shall be issued to all
investing members wishing to make payments to this
Association at different times. Payments may be made
thereon at any time in any amount. Borrowing Shares,
Class C Stock, shall be issued to all borrowing mem-
bbers of the Association."
Section 2 of Article V is as follows:

"DIVIDENDS. The Board of Directors shall in June and December of each year, by resolution duly adopted, declare and order dividends to be credited or paid upon shares of outstanding stock as permitted by law, the same to be computed upon the smallest amount standing to the credit of each shareholder at any time during the period for which such dividend is declared. And further provided, that any payments made on any such shares after the date of such smallest amount that are not withdrawn during the current dividend period shall be entered for dividends as follows: Any payments made within the first five days of any month shall be entered as of the first day of the month and any payments made after the fifth day of any month shall be entered as of the first day of the following month. Provided, further that no dividend shall be credited or paid upon shares of stock withdrawn between dividend crediting or paying dates.

"The dividend period shall be from January 1st to July 1st of each year and from July 1st to January 1st of the next succeeding year. The dividends shall be paid or credited to the account of each shareholder on the last day of each dividend period."

Apparently, Class A Shares are no longer issued, but those which have been issued are continued. It will be noted, however, that nothing is said in either of the above sections quoted which would indicate that there was any distinctive dividend rights as respects either of said classes. This institution was organized on December 30, 1919, under the then existing Act for the incorporation of rural loan and savings associations. Referring to Section 9 of the Act reveals the following provision:

"* * * and dividends on stock may be declared as provided in domestic building and loan associations laws: * * *.

Burns' Indiana Statutes, 1926, Section 5134."
Referring now to the provisions for paying dividends in domestic building and loan associations as of the above organization date, I find the following:

"Dividends shall be declared, credited or paid on the stock, in proportion to the amount paid in on such stock quarterly, semi-annually or annually as the by-laws may provide, but no dividends shall be declared, credited or paid by any such association except out of net profits collected, after deducting from the earnings all expenses of operation and losses sustained."

Burns' Indiana Statutes, 1926, Section 5100.

It will be observed, therefore, that the prior law apparently contains no statement authorizing a difference in the payment of dividends on different classes of common shares. The above provisions became a part of the contract between the association and its stockholders, and it seems to me that, upon that basis, there would be no justification for differentiation in the payment of dividends on Class A and B Common Shares. While I do not think that the contract could be changed without the consent of the shareholders, if it be conceded that the provision with reference to the payment of dividends in the present Financial Institutions Act is applicable, the same result is reached. Referring to Section 18-2108, Burns' Indiana Statutes Annotated, 1933, Subdivision (a), I find in almost identical language with that used in the earlier Domestic Building and Loan Associations Act, the provision that the Board of Directors of any such association may annually, semiannually, or quarterly, by resolution, declare and order dividends to be credited or paid upon capital shares of the association "in proportion to the amounts paid in upon such shares of stock before and during the period for which such dividend is declared." I think your first question should be answered in the negative.

I think, as to your second question, what has already been said indicates the answer thereto. If I understand this question correctly, specific amounts of dividends are not indicated, it being provided that upon amounts up to $5,000 or fifty paid-up shares, the rate of dividend shall be 21½%, and on the next fifty shares or fraction thereof it is to be reduced to the
rate of 1½%, and, as to any amount above 100 shares no dividends at all are to be paid. This, it seems to me, very clearly violates the rule of proportion as set out in both Acts. Your second question is answered in the negative.

STATE BOARD OF ACCOUNTS: Whether a firm or corporation of which a member of the park board of a city is a member, stockholder, or officer may sell supplies or materials to such city. June 14, 1943.

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

Dear Mr. Jensen:

I am in receipt of your letter dated May 24th, 1943, requesting an interpretation of Section 48-1247, Burns' Indiana Statutes 1933, which pertains to any officer or employee of any city or town being either directly or indirectly, a party to, or in any manner interested in, any contract or agreement by which any liability or indebtedness of such city or town is created.

Your specific question reads as follows:

"Is a firm or corporation of which a member of the Park Board of a city is a member, stockholder or officer, permitted to sell supplies or materials, or otherwise enter into a contract with any department of the city of which such person is an officer?"

Section 48-1247 is a criminal statute and is subject to the rule of strict construction, and acts prohibited must fall within the letter as well as within the spirit of the law.

Pontarelli v. State, 203 Ind. 146 on 171;
Colvin v. State, 203 Ind. 417 on 420.