SOLIDERS’ AND SAILORS’ CHILDREN’S HOME: Eligibility of children of veterans of World War II for benefits of the Home.

July 22, 1943.

Mr. L. A. Cortner, Superintendent,
Indiana Soldiers’ and Sailors’ Children’s Home,
Knightstown, Indiana.

Dear Sir:

Your letter of July 1st, 1943, received which, in part, reads as follows:

“Does this law (Chapter 254, Acts, 1943) give the soldiers and sailors of the present war the right to admission of their children to this Institution before they have been honorably discharged or deceased which is the conditions required for admission of the children of soldiers and sailors of other wars. The Board of Trustees of this Institution would appreciate your opinion for their guidance.”

Section 22-2310, Burns’ R. S. 1933, same being Section 9, Chapter 14, Acts of 1887, as amended, is the general statute authorizing admission of children to said home. The pertinent part of said statute is as follows:

“The trustees, under regulations and form of application which they shall prescribe, and after investigation, and the superintendent, are authorized and required to receive as pupils into said home, orphans and children of honorably discharged soldiers, sailors, marines and nurses of the United States, of the Civil War, or the war with Spain, or the war in the Philippine Islands, the China relief expedition, or the World War, or in the regular service of the United States, residing in this state, under the age of sixteen (16) years, who may be destitute of means of support and education in the following order:”

The remainder of such section of the statute has to do with certain classification and the order of admission of children.
The above language contained in said statute clearly authorized the trustees of the Indiana Soldiers' and Sailors' Children's Home to prescribe all reasonable rules and regulations and forms of applications for admission of children to said institution in carrying out the intents and purposes of said act. In construing an act to carry out the intention of the legislature it is a well known rule of statutory construction that the word "and" will be interpreted as meaning "or". The State v. Myers, 146 Ind. 36, 38; Armstrong, Admr., v. State, ex rel., 72 Ind. App. 303, 308; Douglass v. The State, 18 Ind. App. 289, 291, 292. In the first cited case the court construed the word "and" as used in Inheritance Tax Act of 1913, same being clause 4 of Section 10143a, Burns' 1914, to mean "or" so as to read that deeds "made in contemplation of the death of the grantor, vendor or donor and intended to take effect in possession or enjoyment at or after such death" be construed to mean "made in contemplation of the death of the grantor, vendor or donor or intended to take effect in possession or enjoyment at or after such death" so as to give full effect to the legislative intent.

Therefore, the phrase "orphans and children" as used in said Section 22-2310, Burns' 1933, supra, as follows: "orphans and children of honorably discharged soldiers, sailors, marines and nurses of the United States, or in the regular service of the United States, or in the regular service of the United States, or in the regular service of the United States", would be construed to mean "orphans or children". Therefore, in my opinion, orphans of soldiers in the regular service of the United States would be entitled to admission under said statute regardless of whether or not their parent had received an honorable discharge.

Chapter 254 of the Acts of 1943, referred to in your letter, is as follows:

"Section 1. Be it enacted by the General Assembly of the State of Indiana, That all persons who have served, or who are now serving, or who may hereafter serve as a part of the armed forces of the United States in the present war with Germany, Italy or Japan, or any of their allies, and the wives, widows, and children of such persons, who are residents of the State of Indiana, shall have and are hereby given all
of the rights and privileges now held and enjoyed by soldiers, sailors, nurses, and/or other veterans, their wives, widows and children, of the first World War, under existing statutes or under any statute which may hereafter be enacted.

"Sec. 2. Whereas an emergency exists for a more immediate taking effect of this act, this act shall be in full force and effect on and after the first day of April, 1943."

It is evident that Chapter 254, Acts 1943, is a remedial statute and it is well settled that in construing a statute of a remedial character a liberal construction must be applied in order to carry out the humane and benevolent purposes and intentions of the legislature in enacting such statute. See: Lasear, Inc. v. Anderson, 99 Ind. App. 428, 433, and cases cited. Therefore, construing the provisions of Chapter 254, Acts of 1943 in pari materia with Burns' 1933, Section 22-2310, it is apparent that the Legislature intended that all of the humane and benevolent provisions of Section 22-2310 should apply to the orphans or children of soldiers who have served, who are now serving, or may hereafter serve in World War II.

Therefore, it is my opinion that your questions should be answered in the affirmative.

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STATE BOARD OF TAX COMMISSIONERS: In re: salary of county superintendents of schools, whether same may be increased during term of office without violation of the constitution.

July 22, 1943.

Hon. Charles H. Bedwell, Chairman,
State Board of Tax Commissioners,
State House,
Indianapolis, Indiana.

Dear Judge Bedwell:

I am in receipt of your letter of June 10, 1943, requesting an official opinion upon the following questions, to-wit: