

motor vehicles but that a sum sufficient to meet all such necessary expenses may be expended from the funds received by the state treasury from the operation of said automobile license department.

**QUARANTINE LAWS: Tuberculosis, application in case of.
TUBERCULOSIS: Application of quarantine laws.**

March 25, 1941.

John W. Ferree, M. D., Director,
Indiana State Board of Health
1098 West Michigan Street,
Indianapolis, Indiana.

Dear Sir:

I have your request of February 11, 1941, for my official opinion as to the application of the quarantine laws of this State to careless tuberculosis patients.

The question submitted involves, in the first place, an interpretation of an act entitled "An Act to provide for the restriction of dangerous communicable diseases, prescribing penalties for violation thereof, repealing all laws and parts of laws in conflict therewith and declaring an emergency," in force March 4, 1903, Chapter 83, Acts 1903.

Section 2 of this act provides for the giving of notice to the proper official in case of any person found to be suffering from "smallpox, diphtheria, membranous croup, scarlet fever, measles or *any other communicable disease listed in the rules and regulations of the State Board of Health.*"

It is evident from the title of this act and of Section 2 thereof that unless tuberculosis is included in the list of communicable diseases covered by the rules of the State Board of Health and has not been subsequently declared to be a communicable disease, it is not subject to the quarantine laws as provided in this act. It is not specifically mentioned in Section 2 of this act but said section is not to be understood as removing from the category of communicable diseases, diseases not therein enumerated which are in fact communicable. It is moreover one of the principal and most necessary functions of the State Board of Health to prevent the spread of contagious, infectious and communicable diseases and it is my opinion that the word "communicable" as used in the title and body of this act, is suf-

ficiently broad to cover also infectious and contagious diseases.

It was, therefore, proper, even essential, that the State Board of Health be vested with authority to determine and establish, by its rules and regulations, what are communicable diseases.

The act itself fails to specify tuberculosis as a communicable disease. It may not at that time have been ascertained to be a communicable disease. So that if it is so to be classified authority therefor must be found in other laws or decisions or the rules and regulations of the State Board of Health itself. With the latter I have not been favored and so am in no position to pass upon that phase of the question, other than to say that if it is so classified then it is my opinion that the quarantine laws of the State are applicable thereto.

Section 1 of Chapter 149, Acts of 1917, an act entitled "An Act for the prevention and control of tuberculosis in the State of Indiana," in force May 31, 1917; specifically declares tuberculosis to be an infectious, communicable and dangerous disease. Because the Act of 1903, *supra*, failed to list tuberculosis as a dangerous, communicable disease subject to the quarantine laws of the State, is no reason why the Legislature cannot so declare it at a later date. If the disease commonly diagnosed as tuberculosis is ascertained to be communicable at any subsequent date, then the fact is that it must always have been so and the declaration thereof at any subsequent time by the Legislature can only be taken and construed as the declaration of a fact past existing and in no way changing or affecting existing rights.

The Act of 1903, *supra*, must, moreover, be construed as prospective. It operates in the future. It has never been repealed or amended. It purports to and has for its purpose the prevention of the spread of all communicable diseases as evidenced by the provision of Section 1 of the latter act wherein it is stated that any attending physician "who finds the cause of such sickness to be of a contagious or infectious character shall, etc." This language is broad and comprehensive and certainly was designed to and does include all diseases of the character here under discussion. And that the enumeration of the diseases classified as communicable in Section 2 of that act was not to be construed as a limitation is apparent in view of the fact that the Board of Health is vested with authority to find and list communicable diseases in its rules and regulations, which would mean a finding and listing of such diseases by the Board of Health at some future date.

Accordingly it is my opinion that the Act of 1903, *supra*, is authority for the application of the quarantine rules and laws of this State to tuberculosis patients even though the disease of tuberculosis may not at the time of the effective date of the law of 1903 have been recognized as such, that fact having been ascertained and declared at a date subsequent thereto.

STATE BOARD OF TAX COMMISSIONERS: Soldiers' exemptions.

March 27, 1941.

Mr. Edward D. Koenemann,
 Executive Secretary,
 State Board of Tax Commissioners,
 231 State House,
 Indianapolis, Indiana.

Dear Sir:

I have before me your request for an official opinion involving a construction of House Bill No. 253, which was approved March 4, 1941, and will become Chapter 95 of the Acts of the General Assembly of 1941.

The particular point involved is as to whether, under Section 1 of the above Act, a person eligible to claim thereunder is also entitled to the exemption provided by Chapter 175 of the Acts of 1927, in the event such person can also qualify under the terms of the last named Act.

Section 1 of Chapter 175 of the Acts of 1927 provides as follows:

“That any honorably discharged soldier, sailor, marine or nurse who shall have served ninety (90) days or more in the military or naval forces of the United States, and who is totally disabled as evidenced by pension certificate or the award of compensation, and the widow of any such soldier, sailor or marine, may have the amount of one thousand dollars (\$1,000) deducted from his or her taxable property, providing the amount of taxable property as shown by the tax duplicate, shall not exceed the amount of five thousand dollars (\$5,000) and the amount remaining after such deduction shall have been made shall constitute the basis for assess-