"Such appropriation to be in lieu of any and all provisions heretofore made for the payment of salaries and expenses of said Board: Provided, That all fees collected by said board shall be paid to the general fund of the state: and, Provided, Further, That the appropriations above made are hereby limited to the amount of fees collected in the same fiscal year."

A situation similar in all material respects to the situation confronting your Board was considered by the Attorney General in an opinion written to the State Board of Registration for Architects under date of April 11, 1938. The appropriation of specific amounts fixed in the biennial appropriation act was followed by this language:

"Such appropriation to be in lieu of any and all provisions heretofore made for the payment of salaries and expenses of said board."

It was there decided that the expenditures of the board were limited by the appropriation act, notwithstanding the provision of the law creating the board which required the receipts of the board to be kept by the State Treasurer in a separate architect's fund from which expenditures were to be made. (Opinions, Attorney General 1938, p. 173.)

The effect of the language quoted from the 1941 Appropriation Act is to limit your board to the expenditures of the amounts as fixed in that act, and if inadequate enforcement of the statute results, the remedy must be sought at the next session of the General Assembly.

STATE BOARD OF ACCOUNTS: Poor Relief—Whether county auditor fixes the tax levy for poor relief; same as to Poor Relief Bonds; same as to reimbursement of county on account of advancements by county.

Method of handling emergency claims for poor relief.

June 16, 1941.

Mr. Otto K. Jensen,
State Examiner,
State House,
Indianapolis, Indiana.

Dear Sir:

I have your letter requesting an opinion upon the following questions:
1. Does the county auditor or the township trustee and advisory board fix the rate of taxation for poor relief for the following calendar year?

2. Does the county auditor or the township trustee and advisory board fix the rate of taxation:
   (a) For payment of poor relief bonds?
   (b) For reimbursement of county on account of advancements by county?

3. Does the 'emergency' defined in the proviso at the end of Sec. 2 of Chapter 89 of the Acts of 1941, apply only to 1941 expense or does it apply to the provisions of the entire act and authorize the trustee to declare an emergency at any time in the future?

4. Must the appropriations required by Sec. 1 of Chapter 89, Acts of 1941, in 'conformity with the general statutes governing appropriations for other civil township purposes' be by several classes of expense, or in one lump sum for all relief purposes?"

The statutory provisions concerning the levy of taxes for poor relief which had been adopted prior to the 1941 session of the General Assembly are Sec. 52-174, Burns Ind. St. Ann. Supp. 1940; Acts 1935, Ch. 116, Sec. 31, p. 432; Sec. 52-170, Burns, etc., Supp, 1940, Acts 1935, Ch. 116, Sec. 27, p. 432; Sec. 52-611, Burns, etc., Supp. 1940, Acts 1935, Ch. 117, Sec. 8, p. 447 and Sec. 64-311, Burns, etc., Supp. 1940; Acts 1937, Ch. 119, Sec. 6, p. 646.

Both sections 52-174 and 52-170 were enacted as a part of the 1935 Poor Relief Act. Sec. 52-174 authorized, but did not require, the trustee and advisory board to fix a tax levy to raise funds for the poor relief expenses of the year in which the tax would be payable. Sec. 52-170 required the county auditor to fix a tax levy to raise funds for the repayment of that part of the poor relief expenses which the county had advanced to the township in the year preceding that in which the tax would be payable.

Sec. 52-611 is a part of a separate act adopted in 1935 authorizing the county commissioners to borrow money by issuing bonds when the county lacks sufficient funds to ad-
vance the amount needed by the townships for poor relief. By Sec. 611, *supra*, the trustee and advisory board were required to fix a tax levy to raise funds to repay bonds sold by the county to obtain funds for advancement to the township for poor relief purposes. If the trustee and advisory board failed to make such tax levy, the county auditor was required to do so.

In 1937 the General Assembly adopted Sec. 64-311, as a part of the Tax Limitation Law and made it the duty of the county auditor to fix a township tax levy which would raise funds to meet poor relief costs for the ensuing year. The funds to be thus raised were not limited to the sum required to repay advancements, or bonds to produce advancements, theretofore made to the township by the county. Such levy would also raise the funds necessary for current township poor relief needs in the year in which the taxes would be payable.

In 1941 the General Assembly enacted Ch. 89 which contained an emergency clause and became effective when approved, March 4, 1941. This act provides for the appropriation and budgeting of poor relief funds. By Sec. 1 it is made the duty of the trustee and advisory board in 1941 to place in the annual budget the estimated expenditures for poor relief for the ensuing year, and it is made unlawful to disburse funds for poor relief in excess of the amount appropriated. Provision is made for additional appropriations if the amount so budgeted should be insufficient. The 1941 act makes no provision for the fixing of a tax levy to raise the funds so budgeted and appropriated for poor relief for the ensuing year. The act only repeals laws in conflict therewith.

Sec. 3 of the 1941 Act contains the following:

"Provision shall be made for the payment of outstanding bonds issued by townships and judgments taken against townships on account of the furnishing of poor relief, also for the reimbursement of counties for funds advanced to townships for poor relief purposes in the manner now or hereafter provided by law."

Sec. 2 of the 1941 Act authorizes the expenditure in 1941 of funds on hand and received from taxes during the year for poor relief purposes, without appropriation therefor, but prohibits expenditures in excess of such amount unless appropriated in conformity with general appropriation statutes. To the section was added this proviso:
“Provided, that the township trustee in case of casualty, accident or other emergency shall declare the existence of such an emergency and shall report the same to the county auditor, in which case, the township trustee is authorized to contract such obligations as may be required to meet such declared emergency.”

1. There is no conflict or inconsistency between the 1937 and the 1941 statutes which alters the auditor’s duty to fix the tax rate for the ensuing year’s poor relief expenditures by each township. But in fixing such rate he would be expected to take into consideration the poor relief budget and appropriation made by the trustee and advisory board, and he should fix a levy sufficient to meet such budget.

Therefore the provision of Sec. 64-311, adopted in 1937, requiring the county auditor to advertise a tax rate sufficient to meet the estimated cost of poor relief for the ensuing year remains unaffected insofar as it imposes upon the auditor the duty of making the tax levy for poor relief.

2. The language above quoted from Sec. 3 of the 1941 Act discloses a legislative intent that provision should be made by the trustee and advisory board in the poor relief budget and appropriation for the payment of poor relief bonds and judgments and for the repayment of advancements made by the county to the township for poor relief purposes. Nevertheless there is nothing in the 1941 Act which conflicts with the duty of levying a tax sufficient to meet such requirements which duty rests upon the auditor by virtue of Sections 52-170 and 52-611. (Burns, etc., supra.)

3. It will be noted that the emergency provision contained in Section 2 of the 1941 Act becomes applicable “in case of casualty, accident, or other emergency.” It is considered a well established rule that things comprehended by a general designation in a statute must be ejusdem generis to the particulars in the definition. (Miller v. State, 1889, 121 Ind. 294. McNamara v. State, 1932, 203 Ind. 596.) From this it would follow that the term, “other emergency,” would be construed as applicable to cases of a like kind as are designated by the particular words “casualty” and “accident.” In determining whether the emergency provision contained in Section 2 is applicable only to 1941 poor relief expenses dealt with in said Section 2, or is applicable to such expenses for 1942 and subsequent years, as controlled by Section 1, certain rules of statutory construction should be noted:
“The office of a proviso is not to enlarge or extend an act, or the section of which it is a part, but rather to put a limitation upon and to qualify the language employed.”

Board of Commissioners v. Millikan, 1934, 207 Ind. 142, 153.

“The rational and appropriate function of a proviso is to restrain and qualify the preceding clause or clauses in the section in which it is found, yet, where it is manifest that the legislature intended to give the proviso a scope beyond such section it may be held as modifying a preceding one.”

Morrison v. State ex rel., 1914, 181 Ind. 544, 550.

From the foregoing it will be noted that the place occupied by a proviso in a statute will not wholly control its application. Rather, the intent of the legislature is sought from an examination of the entire statute, the objectives in view in its passage and the effect of the proviso upon such objectives. Such an examination indicates an intention that beginning in 1941, annual budgets should be prepared for poor relief expenditures to be made in succeeding years, and that no expenditures should be made unless the funds had been budgeted and appropriated. The General Assembly recognized that situations resulting from casualty or accidents, unpredictable and unforeseeable, as flood, tornado, disastrous automobile, bus or train wreck, and the like, might arise requiring more funds than had been appropriated. Under such circumstances aid would be useless if delayed until the procedure of obtaining additional appropriations was followed. Therefore the emergency provision was adopted. It is not intended to be used merely as a substitute for obtaining additional appropriations when the insufficiency of the existing appropriation to meet normal requirements is known in advance. It is apparent that the need for this emergency clause might be as great after 1941 as in 1941.

Under such circumstances and in view of the legislative objectives, the location of the provision does not compel the conclusion that it is applicable only to the section in which it is found, but supports the view that the clause is applicable to all of the act which precedes it. Therefore it is applicable to poor relief expenditures made in 1941 and subsequent years.
4. The language of Section 1 of the 1941 Act requires appropriations for poor relief purposes to be made “in conformity with the provisions of the general statutes governing appropriations for other civil township purposes.” The general statute referred to is Section 65-311 Burns, etc., 1933, which requires of the trustee a “detailed and itemized statement in writing of his estimated expenditures for which appropriations are asked.” The statute requires particularly the number, salaries and days of employment of teachers, and school supplies and other expenses to be itemized, provides that the trustee shall submit to inquiries of advisory board members and taxpayers, and, at the request of the advisory board, he shall itemize any estimate not sufficiently itemized. The statute also requires the trustee to set out the names of persons who had received poor relief and the amount of relief received. It thus appears that an appropriation made “in conformity with the provisions of the general statutes for other civil township purposes” should only be made pursuant to an estimate setting forth the classes of poor relief expenditures to be made during the ensuing year, rather than a lump sum for all relief purposes.

ADJUTANT GENERAL: Stout Field: Authority of State to grant easement in property at Stout Field.

June 16, 1941.

Honorable J. D. Friday,
Acting Adjutant General,
State of Indiana,
State House,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter of the 6th inst., wherein you request my opinion as to the authority of the state to grant an easement for the construction of a lateral tile drain across the southeast corner of Stout Field Airport to the National Defense Plant Corporation in charge of the erection and construction of the Bridgeport Brass Company plant on lands located immediately east of said airport.

At the outset I wish to say that I find the title to the real estate comprising Stout Field Airport in Trustees rather than