probably not authorize the charging of an 8 per cent discount which would be slightly more than 8 per cent interest as that term is very commonly used. However, when sections 1 and 4 of the Petty Loan Act were amended in 1933 they substituted for eight (8) per centum per annum the language “a greater rate of interest or consideration therefor than the lender would be permitted by law to charge if he were not a licensee hereunder” in section 1, and “greater than the lender would be permitted by law to charge if not a licensee hereunder” in section 4. The purpose of these changes I think is evident, namely: To make the language of the Petty Loan Act with respect to the rates which might be charged without being a licensee correspond exactly with the usury statute. Since the usury statute uses the term “interest” as including discount, I think the word “interest” in the Petty Loan Act as it is used in the foregoing connections should also be construed to include discount.

It is my opinion, therefore, that an individual, partnership or corporation can make loans at $300.00 or less at 8 per cent discount provided the agreement for such a charge is in writing and signed by the person to be charged thereby.

ACCOUNTS, STATE BOARD OF: Burial expenses, inmates of county infirmary, whether borne by county where body is claimed by relatives.

June 15, 1939.

Mr. E. P. Brennan,
State Examiner,
State House,
Indianapolis, Indiana.

My dear Mr. Brennan:

In your letter of June 14, 1939, you submit the following question:

“If the body of an inmate of a county infirmary is claimed by relatives or legal representatives, would the county have any authority to pay the burial expense?”

Section 52-104, Burns 1933, provides:

“Every county shall maintain a county asylum, in addition to any other charitable institution permitted
by law, and shall relieve and support therein such poor and indigent person lawfully settled in the county as may have been placed there by the overseers of the poor, and may contract with other charitable institutions located in the State for the relief and support of the poor maintained therein as a public charge of said county, and may levy taxes for such purposes. The county council shall appropriate and the board of commissioners in each county shall advance to the township trustees the money necessary for the relief and burial of the poor in each township, which shall be accounted for and repaid to the county treasury as hereinafter provided.”

My interpretation of this section leads me to the belief that when an inmate of a county asylum dies it is the duty of the county to bear the expense of the burial. It is not said so in so many words, but it does provide for the levying of taxes for the support, maintenance and relief of the inmates therein. In other words, all inmates of a county asylum are charges of the county and it is certainly the duty and obligation of the county to assume the burial expenses. The same section provides that the township shall bear the expense of the burial of the poor of the township.

When, however, the overseer of the poor has placed a person in the county asylum, then that person becomes a charge of the county and not of the township. As said in the case of Wayne Tp. v. Brown, 205 Ind. 437:

“In this State the poor relief is both a county and township system * * * each working in separate and different lines, depending upon the nature and kind of relief that must and is required to be extended. * * * The county has the duty to maintain a county asylum and other charitable institutions permitted by law. It is the duty of the county to maintain in the county asylum persons lawfully settled in the county as may have been placed there by the overseers of the poor * * *.”

It is clearly the duty of the county to take care of and support the inmates of the county asylum. As said in the foregoing case:
“It is clearly seen from the above section of the statute that the legislature has expressly provided that it is not a county duty or obligation to take care of the poor other than those in a county institution * * *.”

As it is the duty of the county to support and care for the inmates while living, it is likewise the duty and obligation of the county to assume their burial expenses.

I am unable to find any statute which can be construed to relieve the county of bearing the expense of the burial of deceased inmates of the county asylum.

Section 63-602, Burns 1933, provides for a relative claiming the body of a deceased inmate for burial. Does the fact that a relative claims the body for burial relieve the county of the expense of burial? In my opinion it does not. It may be that where a particular relative is amply able to bear the expense, he is morally obligated to do so; legally he is not. On the other hand, the relative may be as poor as the inmate. He may be a brother or sister, father or mother, and desires to take the body to his or her home or to a place of worship to have the last rites said. Surely in such a case this request would not be denied on account of the poverty of the one so claiming the body.

In my opinion, in answer to your letter, the county has authority to pay the burial expense of a deceased inmate of a county asylum where the body is claimed by relatives and it is not an obligation of the township.

FINANCIAL INSTITUTIONS, DEPARTMENT OF: Petty Loan Act, validity of loans of $300 or less at 8 per cent discount where principal is repaid in installments.

June 22, 1939.

Hon. Ross H. Wallace, Director,
Department of Financial Institutions,
Indianapolis, Indiana.

Dear Sir:

I have before me your request for an official opinion in answer to the following question:

“Can an individual, partnership or corporation legally make loans of $300.00 or less at an 8 per cent per annum