

Under date of June 26, 1933, the Sinclair Oil Refining Company mailed to the department application for store licenses for filling stations opened during the period from January 1 to May 21, 1933. The fees were based upon the provisions of section 5 of chapter 207 of the Acts of 1929. (Acts of 1929, p. 695.)

In the meantime, by an act approved May 11, 1933, section 5, *supra*, was amended so as to materially increase the amount of the license fee due, if said amended section is held to apply. Your question is, whether under the circumstances you are authorized to accept the fees under the original section 5 or whether you should require the payment of fees under the amended section 5.

The Acts of 1933 became effective on May 22, 1933, at 10 o'clock a. m. The application in the case under consideration was filed on June 26, 1933.

In my opinion, upon all applications filed after the effective date of section 5, as amended in 1933, the fees collected should be governed by that act.

On all applications filed prior to the effective date of the amendment of 1933, the fees to be charged and collected are governed by the original section 5.

INDIANA UNIVERSITY: Hydrophobia—proposed method of treatment of such cases.

July 12, 1933.

Hon. C. G. Culbertson, M. D.,
 Director, State Board of Health Laboratory,
 Indiana University School of Medicine and Hospitals,
 Indianapolis, Indiana.

Dear Sir:

I have before me your inquiry of July 5, 1933, reading as follows:

“The question of the treatment of hydrophobia cases by the state comes up in controversial form very frequently. The two present existing laws are far from permitting this service to be efficiently carried out by the state board of health.

“Since the logical method of handling indigents is to have them treated at home by the local doctor, it would

be a great improvement to be able to send the material for vaccination to the local physician on request of some individual as the township trustee. Such expense would be borne by the state hydrophobia fund.

"We would like an opinion as to the legality of carrying on such an arrangement under the existing laws."

Sections 8197 and 8198 Burns Annotated Indiana Statutes, Revision of 1926, prescribing the powers and duties of the state board of health in connection with Pasteur treatments, read as follows:

Section 8197. "When the fund provided for in section 1 of this act shall reach the sum of two thousand dollars, the state board of health *shall provide means* to give the Pasteur treatment for persons infected with hydrophobia, either in private institutions or in an institution which may be established and maintained by the board for that purpose, *whenever they shall so determine* and when the funds therefor shall be available. For the purposes of this act the auditor of state shall issue warrants on the hydrophobia fund in the state treasury on the presentation of itemized vouchers issued by the state board of health and attested by the secretary." (My italics.)

Section 8198. "The state board of health is *authorized* to pay the traveling and living expenses of any person duly certified to it for the Pasteur treatment and to pay the traveling and living expenses of any child's mother or nurse who may be necessary to care for said child during treatment. *It shall be the duty* of the state board of health *to pass rules for the detailed enforcement of the purposes of this act* and anyone violating any of said rules shall, upon conviction, be fined in any sum not exceeding twenty-five dollars. When it shall come to the knowledge of any health officer in the state that any person within his jurisdiction has been bitten by a dog known or supposed to have hydrophobia, he shall investigate the case, and if he finds such person to be affected or in danger of being affected with hydrophobia and that such person has no visible means with which to pay for the Pasteur treatment, he shall refer the case to the state board of

health. *The state board of health shall thereupon take charge of such case and cause such person to be treated with the Pasteur treatment according to such rules as may be prescribed by the board.*" (My italics.)

The language of section 8197, *supra*, might be construed to prohibit the *home treatment* of indigents, and to require that they must be treated in some *private institution* or some *institution* "established and maintained by the board," because of the use of the word "shall" preceding the provision relating to institutional treatment. However, the intention of the legislature must be arrived at from a consideration of the entire section and of the entire act. The same section contains the further language, "whenever they shall so determine," and it is my opinion, that this language was intended to limit the provision regarding treatment in institutions. This construction is further borne out by section 8198, *supra*, which was section 3 of the same act (Acts 1911, p. 161). The latter section, quoted above, gives the board the authority, and makes it its duty to "pass rules for the detailed enforcement of the purposes of this act." It also provides that, where cases are properly referred to the State Board of Health, the board shall "cause such person to be treated with the Pasteur treatment according to such rules as may be prescribed by the board." (My italics.)

From an examination of the entire act, it is my opinion, that the legislature intended to leave the manner and place of treatment of such persons to the discretion of the board, subject to its rules and regulations, so long as such rules tend to effectuate "the purposes of this act." (Section 8198, *supra*.) It is my opinion, that it would be legal for the board to set up rules and regulations providing for home treatment in cases where such treatment would be just as satisfactory and effective as treatment in some such institution as mentioned in the act.

As to the question of the expense of the material and treatment, there is some confusion in the law on account of the amendment (Acts 1929, page 290) of the law providing for free antitoxins and serums to poor persons in certain cases. The act, as amended, provides that counties, cities and towns are required to furnish certain serums and antitoxins, including antirabic serum, to indigents upon proper affirmation

of the attending physician. Nothing is said in the latter act, however, about any of the expenses of treatment other than the furnishing of the serum itself. Since section 8197, *supra*, provides that "the state board of health shall provide means to give the Pasteur treatment," and since the cost of the serum has been made a charge on the respective counties, cities and towns by a later enactment of the legislature, it is my opinion, that the state board of health should take care of all necessary expenses, in a proper case, *except* the cost of the serum.

CONSERVATION DEPARTMENT: Whether Universal Hunting and Fishing License Law applies to persons fishing in those parts of Lake Michigan under jurisdiction of this state.

July 13, 1933.

Hon. Kenneth M. Kunkel,
 Director, Fish and Game Division,
 Conservation Department,
 Indianapolis, Indiana.

Dear Sir:

I have before me your letter of June 24, 1933, in which you ask whether or not the so-called "Universal Hunting and Fishing License Law" applies to persons fishing from piers in those parts of Lake Michigan under the jurisdiction of this state.

The law in question is chapter 216 of the Acts of 1933, which, omitting title and introductory matter, reads as follows:

"The following persons *only* may hunt, fish or trap without a license therefor, and upon these conditions only: The owners of farm lands who are residents of Indiana, and their children living with them, upon such lands only; bona fide tenants of farm lands, residing thereon, upon such lands only. All persons under eighteen years of age may fish without a license. Also all persons who by right of being an honorably discharged soldier, sailor, marine or army nurse are exempt from securing a license under this act." (My italics.)

The persons about whom you inquire are not among the classes of persons expressly exempted from the operation of