

was that it should continue to function as an agency of the department of public works to which its powers, duties and functions were assigned. I think the governor may under the authority of chapter 4, *supra*, appoint an entirely different agency within the department of public works to perform the duties and functions of the board of public buildings and property. If that has been done, the duties of the board of public buildings and property have apparently been superceded by that agency. If such an agency has not been provided, I think it may be fairly assumed that said board should continue to exercise its functions under and subject to the department to which its functions have been transferred. Your question, in any event, is answered in the affirmative.

AUDITOR OF STATE: Pension, old age—whether both man and wife can receive same.

August 21, 1933.

Hon. Floyd E. Williamson,
Auditor of State,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter of August 21, 1933, asking whether or not, both man and wife can receive an old age pension under the provision of the Acts of 1933.

Chapter 36 of the Acts of 1933, page 164, relating to old age pensions, does not specifically prevent the grant of pensions to both man and wife at the same time, provided that both comply with the requirements set out in section 4 of the act. However, paragraph 2 of section 5 of the act provides that where a husband and wife are living together, the value of their combined properties shall be the criterion in determining the property valuation of the applicant.

Section 7 of the act provides that

“On the death of a person pensioned under this act, or the survivor of a married couple, if the pensioner is married, the total amount paid as a pension to either or both of such married couple, together with the simple interest at three per cent per annum, shall be allowed and deducted from the estate of such person or persons by the court having jurisdiction in the settlement of the estate.”

While the language is rather vague and ambiguous, it is my opinion that the legislature intended that where a couple was married and living together, the pension might be paid jointly to both of them, where they were both over the age of seventy years, and that upon the death of either, the pension would continue to be paid to the survivor, and, upon the death of such survivor, the amount so paid to either or both, would be collectible as a claim against the estate of either or both.

Applying this construction to section 3, which limits the amount of the pension to not exceeding fifteen dollars per month, it is my opinion, that where such pension is applied for jointly by such married couple, this limit would apply, but, where both husband and wife make separate applications, even though living together, the fifteen dollar per month limitation would apply to each of such applications.

It must be remembered, however, that in all cases, the amount of the pension "shall be fixed with due regard to the conditions in each case" and that the pension allowed to one member of such married couple, would have a direct bearing upon the application of the other. After all, it would be a matter of sound discretion upon the part of the board of commissioners, who are charged with the administration of the law.

**PUBLIC SAFETY, DEPT. OF: Busses—whether school
busses must carry warning flags and caution signals.**

August 21, 1933.

Hon. Al Feeney, Director
Department of Public Safety,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter of August 16, 1933, in which you ask my opinion as to whether or not school busses are obliged to carry flares and flags under sections 4 and 5 of chapter 90, Acts of 1933, amending sections 48 and 49 of chapter 213, of the Acts of 1925.

Section 4, *supra*, provides in part as follows:

"Every motor vehicle used for the carriage of passengers for hire, and every motor truck and commercial motor vehicle shall be equipped with at least two red