CONSERVATION DEPARTMENT: Whether all honorably discharged nurses, soldiers, sailors and marines are entitled to free permits to hunt, fish and trap in Indiana after 6 months residence, whether they were in a war or not.

June 28, 1933.

Hon. H. G. Shinnamon,
License Clerk,
Division of Fish and Game,
Department of Conservation,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter of June 26, 1933, in which you ask whether or not all honorably discharged nurses, soldiers, sailors and marines are entitled to the privileges of a free permit to hunt, fish and trap in Indiana after residing in this state six months, whether they were in a war or not. You also submit dates purporting to be the dates of the beginnings and terminations of the Civil War, Spanish-American War, war in the Philippines, and the late war with Germany, for my opinion relative thereto.

In answer to your first question, I will say that only those honorably discharged nurses, soldiers, sailors and marines who served during one of the wars named in the statutes are entitled to such free permits. Section 1, chapter 216, Acts of 1933, which sets out the exemptions from the operation of the so-called "universal" hunting and fishing license law, names as one of the classes entitled to such exemption "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." (Our italics.) We must go back to the other enactments of our legislature to determine who, of such general class of persons, "are exempt" by law. Sections 13690 and 13691, Burns Annotated Indiana Statutes, Revision of 1926, exempt honorably discharged soldiers, sailors and marines of the wars designated; namely, the Civil War, the war with Spain, the war in the Philippine Islands and the late war with Germany. Chapter 180, Acts of 1933 (p. 908), exempts nurses who served during the late World War. These exemptions clearly do not extend to soldiers, sailors, marines or nurses who did not serve during one of the wars enumerated.
Your second question depends partly upon historical facts, all of which are not in the possession of the writer. In the case of the Civil War, it has been held by the courts that the war began April 12, 1861, and ended April 1, 1866. Likewise, the courts have fixed the period of the late war with Germany between the dates of April 6, 1917, and July 2, 1921. April 21, 1898, was fixed by Congress as the date when a state of war first existed between this country and Spain, and the war terminated officially on April 11, 1899, when ratifications of the Treaty of Paris, which had been signed December 10, 1898, were exchanged and officially proclaimed.

The war in the Philippines, being an insurrection by subjects of the United States and therefore, never recognized by official proclamation as a war between sovereign states, presents a more difficult problem. This "war" generally is recognized as having begun on February 4, 1899. (See World Almanac, 1933.) Aguinaldo, leader of the insurrectionists, was captured March 23, 1901, and the United States established a civil government in the Philippines on May 3, 1901. It is the writer's opinion that the latter date should be taken as the one marking the termination of the "war" in the Philippines.

AUDITOR OF STATE: Per diem of special judges—whether salary reduction act applies to such per diem.

June 29, 1933.

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

Dear Sir:

I have before me your request for an official opinion as to whether the General Salary Reduction Act of 1932, the same being chapter 70 of the Acts of 1932, the terms of which were extended by chapter 122 of the Acts of 1933—whether the provisions of the above acts apply to the per diem of special judges as provided in chapter 25 of the Acts of 1932.

It is my opinion that the above General Salary Reduction Acts do not apply to the per diem of special judges, which is fixed by chapter 25 of the Acts of 1932 at the sum of ten ($10.00) dollars per day for the time actually served.