SECURITIES COMMISSION: Construction of appropriation for commission.

December 12, 1933.

Hon. William P. O’Neill,
Indiana Securities Commission,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter in which you state that the securities commission, upon proper departmental and executive approval, purchased an automobile for the use of the department on November 4, 1933, agreeing to pay therefor the sum of $676.32 in addition to a used automobile which was turned over to the dealer in part payment. You also advised that the used automobile was purchased in 1931 and on September 8th of that year, was paid for by the exchange of another used automobile and a voucher in the sum of $800 drawn on the “All Other Operating Expenses” appropriation of the commission. There is an unexpended balance in this fund of $2,584.95. There is in the appropriation for “equipment” the sum of $150. A question has arisen as to whether the above amount, that is, $676.32, may be paid out of the appropriation for “All Other Operating Expenses.” You refer to the fact that previously such an item was paid out of the “All Other Operating Expenses” appropriation and suggest that, in your opinion, it thus may be paid legally. The Biennial Appropriation Act defines the term, “All Other Operating Expenses,” and provides that it

“shall be construed to include all payments made for fuel, food, cleaning, disinfecting, refrigeration, clothing, forage, printing, lighting, heat, power, water, transportation, communication, traveling, laundering, and all payments for medical, laboratory, disinfecting, educational, agricultural, vehicle, office and other supplies and materials, and all payments made for the repair of buildings, highways, sewers, vehicles, and all other general repairs.”


You suggest that since transportation may be paid for out of the “All Other Operating Expenses” appropriation, the same would include an automobile which is used only for transportation in the conduct of your official duties.
Some doubt arises, I think, whether the words transportation should be thus construed, especially in view of the fact that vehicle is specifically mentioned under the definition of the term of equipment, although it is evident that the only purpose in the commission’s securing the automobile is to reduce the operating cost for transportation. The term, however, does clearly include all vehicle accessories and all repairs to vehicles. I am advised by you, that the interpretation you suggest has been given to the term and that two years ago the commission, the budget committee and also the attorney general and the state examiner of the state board of accounts, were in entire unanimity in the opinion that such an expense should be paid from the “All Other Operating Expenses” appropriation, for the reason that the vehicle such as contemplated in your letter for the use of your department is in lieu of the ordinary transportation.

Doubtless your budgetary requests were made in reliance upon that interpretation, and in view of the situation as above set out and the previous administrative interpretation, I think that interpretation may be followed in this case and the payment made out of such appropriation.

PROBATION, DIRECTOR OF: Probation officers—term of office; whether present officers must take examination to become eligible for reappointment.

December 13, 1933.

Hon. Francis D. McCabe,
Director of Probation,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter submitting the following questions:

“1. Does the term of appointment of a probation officer expire with the expiration of the judge’s term?

“2. Is there a limitation on the term of service of a probation officer, after such officer has been duly appointed?

“3. Is it necessary for persons who are now probation officers to take the examination as provided in the 1933 act and be placed on the eligible list before reappointment for the new calendar year?”