ARCHITECTS, STATE BOARD OF: Appropriation, whether board is limited to specific appropriation in Biennial Appropriation Act.

April 11, 1938.

Mr. Leighton Bowers,
Secretary Indiana State Board of Registration for Architects,
Indianapolis, Indiana.

Dear Sir:

The general Biennial Appropriation Act of 1937 makes the following appropriation for the Board of Registration of Architects:

“For board of registration of architects:

Operating expense:

Personal service for the fiscal year beginning July 1, 1937, two thousand three hundred dollars ($2,300).

Personal service for the fiscal year beginning July 1, 1938, two thousand three hundred dollars ($2,300).

All other operating expenses for the fiscal year beginning July 1, 1937, one thousand dollars ($1,000).

All other operating expenses for the fiscal year beginning July 1, 1938, one thousand dollars ($1,000).

Fixed charges for the fiscal year beginning July 1, 1937, fifty dollars ($50).

Fixed charges for the fiscal year beginning July 1, 1938, fifty dollars ($50).

Such appropriation to be in lieu of any and all provisions heretofore made for the payment of salaries and expenses of said board;

“Provided, that all fees collected by said board shall be paid to the general fund of the state; and provided, further, that the appropriations above made are hereby limited to the amount of fees collected in the same fiscal year.”

Section 4 of Chapter 252 of the Acts of 1935, which is an amendment to section 19 of the Act providing for the registration and licensing of architects, approved May 9, 1929, in-
so far as necessary for the consideration of your question, provides as follows:

"The secretary of the board shall receive and account for all money paid to the board under the provisions of this Act and shall pay such money into the state treasury. All money so received and paid into the state treasury shall be kept in a separate fund which shall be known as the architects' fund. Any and all expenses necessarily incurred by the board in carrying out and administering the provisions of this Act shall be paid out of the architects' fund, on warrants of the auditor of state, issued on requisition signed by the chairman and the secretary of the board. All salaries and other compensation shall be paid out of such fund in the same manner as the salaries of other state officials. If, at the end of any fiscal year, the balance in the architects' fund should exceed three thousand dollars, such excess over and above three thousand dollars shall be transferred to the general fund. * * *

You request an official opinion as to whether you are limited to the appropriation made by the General Assembly of 1937, or whether you may spend any of the funds received by you which are necessary for the purpose of properly administering the Act, so long as you do not exceed the amount received, notwithstanding the limitations provided in the Appropriation Act.

You refer to the opinion of my predecessor under date of March 5, 1936, wherein he held that Section 4 of Chapter 252 of the Acts of 1935 takes precedence over the Appropriation Act of 1935. In that opinion, however, your attention is called to the fact that the conclusion reached was based upon the fact that Chapter 252 became a law after the enactment of the general Appropriation Act, and since it repealed all laws in conflict with it, it—Chapter 252—was the latest expression of the legislative will. That situation does not apply, however, to your present question, since the 1937 Biennial Appropriation Act is later in point of time than Chapter 252 of the Acts of 1935, and I am required to pass upon your question unaided by the opinion referred to. Your question raises directly the question of the power of the Legislature in an appropriation Act, by language such as appears in the 1937 appropriation
Act above referred to, to limit the expenditures of the board to which you refer.

As I see it, there is no middle ground which can be taken. The provisions of the Appropriation Act requiring all receipts to be turned into the general fund and limiting the expenditures to the amounts fixed in the Act, is either valid in toto or invalid. The only question of the validity of the provision which occurs to me arises in the consideration of the title of the Appropriation Act, but I am of the opinion that, considering the liberal view which the courts take of the titles of legislation, that the matter contained in the provision above referred to would be held to be properly related to the general subject of the Act.

It is my opinion, therefore, that the provision is valid and operates to limit the expenditures of the board.

I called your attention, however, to Section 8 of the Biennial Appropriation Act, Acts of 1937, page 598, which authorizes the department of treasury to make available any part of the annual appropriation for the succeeding fiscal year for operating expenses and equipment in case an actual emergency exists for making such appropriation available. The procedure for obtaining such an order is sufficiently set out in the section referred to.

HEALTH, STATE BOARD OF: Health officers. Meaning of term: "Actual necessary operating expenses."

April 11, 1938.

Hon. Verne K. Harvey, M.D.,
Director,
Indiana State Board of Health,
Indianapolis, Indiana.

Dear Doctor Harvey:

Receipt is acknowledged of your request for an official opinion dated April 7, 1938, which request reads as follows:

"Attached hereto is a letter dated April 5, 1938, from the health officer of Porter County. I respectfully request an official opinion from you regarding the following questions as indicated in the attached letter:

"(1) Under the existing laws may a health officer employ a special deputy for the purpose of establishing quarantine,