

1968 O. A. G.

If the State Election Board decides to maintain the ballot as it was certified on September 4, 1968, then the term of the judge you appoint would expire on the first Monday in January, 1971. Even though the term of a Judge of the Indiana Supreme Court is six years under the Indiana Constitution, a vacancy must be filled by election at the first time it is possible to place the office on the ballot in conformance with the statutory procedure provided by the Legislature.

OFFICIAL OPINION NO. 36

September 27, 1968

**OFFICERS, COUNTY—SALARY OR COMPENSATION—
County Coroner—Salary of Licensed Veterinarian
Under Coroners' Salary Act.**

Opinion Requested by Hon. James M. Plaskett, State Senator.

You have requested that I determine whether a person legally licensed to practice veterinary medicine and surgery in Indiana pursuant to Acts 1959, ch. 387, which may be found in Burns IND. STAT. ANN. §§ 16-1431 to 16-1456, is "a physician duly licensed to practice as such in this state" within the meaning of the Coroners' Salary Act, Acts 1957, ch. 319, § 11, Burns § 49-1063. If a licensed veterinarian is a physician duly licensed to practice as such in this state within the meaning of the Coroners' Salary Act, he is entitled when serving as coroner to one and one-half the base salary set out in that statute for the office.

As you know, I issued an Official Opinion interpreting that section of the Coroners' Salary Act in 1965, 1965 O.A.G., p. 151. In that opinion, I made the following statement:

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“It is the sense of the Coroners’ Salary Act that persons having advanced training in the physical sciences are more qualified than laymen to meet the present day requirements of a complicated society in performing the duties of a coroner. It is my opinion that it was the obvious intention of the Legislature to attract people having such professional qualifications to seek the office of coroner, thereby greatly increasing the amount of scientific knowledge brought to that office. The Legislature obviously intended to reward the trained personnel who achieve this office by a salary greater than that of someone not so qualified. It might be argued that a police officer trained to investigate crimes would also be well qualified to fill such a position. It might further be stated that the particular type of physician who is best qualified to be a coroner is one specializing in pathology. However, the Legislature did not include a specially trained police officer or designate a type of physician, but adopted instead the broad term ‘physician.’ Therefore, all duly licensed physicians who are recognized by the proper licensing authorities of the State of Indiana must be held to qualify for the extra pay provided in the Coroners’ Salary Act.” 1965 O.A.G. at 151-152.

As indicated in that opinion, the Coroners’ Salary Act does not define the words “physician” or “licensed physician” or “physician duly licensed to practice as such.”

After a study of various licensing laws, I concluded in 1965 that chiropractors, doctors with unlimited licenses to practice medicine (including osteopaths), podiatrists and dentists all practice the healing arts, receive professional training and must be licensed by a professional board to practice their science. I stated, therefore, that any person licensed to practice one of those professions is a “physician duly licensed to practice as such in this state” within the meaning of the Coroners’ Salary Act.

Acts 1959, ch. 387, previously cited, provides for the licensing of persons to practice “veterinary medicine and sur-

gery" in this state. The term "practice of veterinary medicine and surgery" is defined in the Act as any act or operation for:

"(1) The relief from disease, pathological condition or injury to any domestic animal.

"(2) The practice of surgery, dentistry or obstetrics upon any domestic animal.

"(3) The diagnosing, venepuncture, prescribing or administering of any drug, medicine, biological product, appliance or application for diagnosis in the treatment or prevention of disease of any domestic animal.

"(4) The cure, healing, aid or relief of any wound, fracture, bodily injury, pathological condition of any kind or the administration of prophylaxis to any domestic animal." Section 3(e), Burns § 16-1433.

Practice of veterinary medicine and surgery without a license is prohibited by section 9 of the Act, Burns § 16-1439. In order to qualify for a license, an applicant must prove that he is a graduate of a school, college or university approved by the State Board of Veterinary Medical Examiners, and pass an examination, *ibid*. The Board has adopted by regulation a list of approved schools, Regulation 1, § 2, adopted January 14, 1964, filed April 1, 1964, which may be found in Burns IND. RULES AND REGS. ANN. (16-1439)-1. Dr. David L. Smith, State Veterinarian and Secretary of the Board, has informed me that each of these approved schools requires an entering student to have successfully completed at least two years of pre-medical courses in college. Each of the approved schools provides at least a four year course in veterinary medicine and surgery. The courses of study include comparative anatomy, pathology, and studies of the effects of the same drugs and medicines used for treatment of human ills.

After consideration of the statutes concerning the licensing of individuals in the State of Indiana to practice veterinary medicine and surgery, including their training require-

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ments, and the intention of the Legislature in passing the Coroners' Salary Act, it is my opinion that a licensed veterinarian is a "physician" within the meaning of the Coroners' Salary Act and is entitled to one and one-half times the base salary for a county coroner while serving in such office.

OFFICIAL OPINION NO. 37

October 18, 1968

CITIES AND TOWNS—JUDICIAL OFFICERS—Appeal of judgment of conviction from town court— Jurisdiction of appeal

Opinion Requested by Hon. John W. Donaldson, State Representative.

"Is there an appeal from a judgment of a town court created pursuant to Acts 1961, Chapter 76, to the criminal court or Circuit court of the county pursuant to Acts 1905, Chapter 169, as amended?"

The authority for the creation of town courts in towns was provided by the Legislature through Acts 1961, ch. 76, which amended Acts 1905, ch. 129, by adding thereto three new sections numbered 215a, 215b and 215c, the same being Burns IND. STAT. ANN. §§ 4-6026, 4-6027 and 4-6028 respectively. The Act (which does not apply to any town located in a county having a population of more than 200,000) provides for the creation of the court, the operation of the court and the election of the judge, and, in Burns § 4-6027, describes his jurisdiction thusly:

"He shall have and exercise, within the county in which such town is located, the powers and jurisdiction now