I am therefore of the opinion a principal of a public school does not have authority to order a dentist to examine children who are to be enrolled for the first time.

OFFICIAL OPINION NO. 18

May 23, 1963

Mr. Albert Kelly, Administrator
Department of Public Welfare
701 State Office Building
Indianapolis 4, Indiana

Dear Mr. Kelly:

This is in response to your letter of May 16, 1963, which reads as follows:

> "Your official opinion is requested regarding the question of whether or not a detention home established by a juvenile court under the provisions of Burns' Revised Statutes Sec. 9-3222 is required to be licensed under the provisions of Burns' Revised Statutes Sec. 22-2416."

In answering your question, it is essential that the provisions of the two statutes which you have cited be considered in relation to each other. The first of these being the Acts of 1945, Ch. 356, Sec. 22, as found in Burns' (1956 Repl.), Section 9-3222, which reads in part as follows:

> "* * * Provision shall be made for the temporary detention of children in *a detention home to be conducted as an agency of the court,* or the court may arrange for the boarding of such children temporarily in private homes, subject to the supervision of the court, or may arrange with any authorized institution or agency, to receive for temporary care children within the jurisdiction of the court.
>
> *"Where a detention home is established as an agency of the court* it shall be furnished and carried on, as far as possible, as a family home in charge of a super-

> intendent. *The judge may appoint a superintendent, a matron and other necessary employees for such home in the same manner as is provided for the appointment of other employees of the court,* their salaries to be fixed and paid in the same manner as the salaries of other employees of the court. The necessary expenses incurred in maintaining such detention home shall be paid by the county * * *" (Our emphasis)

The second section, which you cited, namely, the Acts of 1945, Ch. 185, Sec. 1, as found in Burns' (1950 Repl.), Section 22-2416, reads as follows:

> "It shall be unlawful for any *person, firm, corporation or association* to operate, maintain or conduct a boarding-home for children, a day nursery, a children's home or child-caring institution or to engage in or assist in conducting a business of placing children as herein defined, without having in full force a written license therefor from the state department of public welfare. Provided, That nothing in this act shall apply to any state institution maintained and operated by the state." (Our emphasis)

Sections 2 to 5 of said Acts of 1945, Ch. 185, as found in Burns' (1950 Repl.), Sections 22-2417 to 22-2420, inclusive, contain definitions of the various types of homes mentioned in Burns' 22-2416, *supra.* However, there is no reference made anywhere in this act as to a "detention home established by juvenile court."

It is interesting to note, that each of the acts you have cited, namely, Burns' 9-3222 and 22-2416, *supra,* were enacted by the Legislature in 1945, with Burns' 22-2416, *supra,* being approved on March 6, 1945, and Burns' 9-3222, *supra,* being approved on March 10, 1945. It is axiomatic that the primary object of statutory construction is to ascertain and effectuate the intent of the Legislature. Inasmuch as both statutes, cited in the instant case, relate to the same general subject matter, they are *in pari materia.* In my 1957 O. A. G., pages 63, 66, No. 15, I quoted from Sutherland Statutory

Construction, 3rd Ed., Vol. 1, Sec. 2020, pp. 483, 484 and 485, as follows:

> "The enactment by a legislative assembly of two or more acts upon the same subject matter creates a presumption that the acts which were born of the same legislative mind were actuated with the same policy, and were intended to coexist to attain by their mutual operation the object of the legislation. The rules of construction and interpretation of acts *in pari materia* apply with singular force to enactments promulgated by the same legislative body, with the consequent strengthening of the presumption against implied repeals * * *
>
> "In the absence of an irreconcilable conflict between two acts of the same session, each will be construed to operate within the limits of its own terms in a manner not to conflict with the other act * * *"

See also: Newbauer v. State (1928), 200 Ind. 118, 122, 161 N. E. 826;

26 I. L. E. Statutes § 131, pp. 344, 345.

Your question is particularly directed to "a detention home established by a juvenile court." The statute grants authority to the judge thereof to appoint the superintendent, a matron and other necessary employees for such a home, in the same manner as provided for the appointment of other employees of the court. The power thus vested in a judge of the juvenile court is clearly indicative of an intent by the Legislature to confer supervisory power upon the judge for the proper conduct and operation of such a home.

The language employed in the second paragraph of Burns' 9-3222, *supra*, which contains the proviso as to the methods which may be used for temporary detention, clearly distinguish between "a detention home to be conducted as an agency of the court" and where the placement is one which the judge "may arrange *with any authorized institution or agency.*" (Our emphasis) It would appear that an "authorized institution or agency" would be one coming within the requirements for a license. The use of the words "subject to

the supervision of the court" as found in this proviso also strengthens the indication that it was not the legislative intent to require a license for such a detention home, the operation of which was so clearly placed under the supervision of the court.

The provisions of Burns' 22-2416, *supra*, require "any person, firm, corporation or association" to obtain a license. A juvenile court, in its judicial capacity, is not a person, firm, corporation or association.

Therefore, it is my opinion, that a detention home established by a juvenile court under the provisions of Burns' 9-3222, *supra*, is not required to be licensed under the provisions of Burns' 22-2416, *supra*.

OFFICIAL OPINION NO. 19

May 28, 1963

Mr. George E. Goodwin
Executive Director
Indiana State Highway Commission
100 North Senate Avenue
Indianapolis 4, Indiana

Dear Mr. Goodwin:

Your letter of April 9, 1963, requests my Official Opinion on the question presented which is as follows:

> "Our Chairman, Mr. Cohen, has suggested that I ask you for an opinion as to whether it would be legal for the Indiana State Highway Commission, thru the State Finance Board, to make short term investments of State Highway Funds, as recommended by our Accounting Task Force. If such investment of fluctuating idle State Highway funds is determined to be legal, we would also want to know whether the interest earned would be credited to the Highway Fund."

Your question concerns highway funds which are received from two principal sources: (1) the motor vehicle highway