OPINION 5

Receipt and recordation of service of summons however made upon him; that it is immaterial under the 1961 Act as to the method employed in obtaining service of summons upon the Secretary of State as long as such service is made with the filing fee of $2.00, and can be proven to the satisfaction of the court in which the action is filed; that service of process by the Sheriff of Marion County or such other sheriff who can lawfully make due return thereon should be received and recorded as summons in the case of mailing or by personal delivery.

OFFICIAL OPINION NO. 5

January 5, 1962

Hon. Paul J. Bitz
State Senator
514 Lewis Avenue
Evansville, Indiana

Dear Senator Bitz:

This is in response to your recent letter requesting my Official Opinion upon the following questions:

"1. May the Township Trustee arbitrarily pay an amount (below the normal rate charged by the hospital) for each day's hospitalization of a Township indigent or must he pay the established hospital rate?

"2. If a person has been classified as a Township indigent and on the Township Trustee's Relief Roll, has that Township Trustee the authority to refuse such indigent hospitalization at the Township's expense?

"3. Has the Township Trustee the authority, in cases of Township indigents, who were injured in that Township as a result of a fight or other misdemeanor on their part, such as injury resulting from being drunk, the right to refuse hospitalization at Township expense if the injured person was on that Township Trustee's Relief Rolls at the time of such injury? What if the injury should occur in some other Township?

"4. May the Township Trustee contract at an agreed price per day that he will pay for each indigent during
the ensuing year, in other words, the hospital and the Township Trustee would agree what the daily hospitalization rate would be for any indigent during a period not to exceed one year?

“5. Has any Township Trustee, in the various communities in Indiana, been successful in obtaining a preferred rate (for less money than the public pays) for Township indigent’s hospitalization?”

The *ex officio* duties relating to poor relief are placed upon the several township trustees by Acts of 1935, Ch. 116, Sec. 1, as found in Burns’ (1951 Repl.), Section 52-144, which reads in part as follows:

“The township trustees of the several townships of this state shall be ex officio the overseers of the poor within their respective townships, and shall perform all duties with reference to the poor of their respective townships that may be prescribed by law. Every township trustee shall, in discharging the duties prescribed by this act, be designated an overseer of the poor.”

Subsequent sections of the aforesaid act concern various phases of poor relief, and Section 5 thereof, as amended by Acts of 1961, Ch. 223, Sec. 2, and as found in Burns’ (1961 Supp.), Section 52-148 reads as follows:

“The overseer of the poor in each township shall have the oversight and care of all poor persons in his township so long as they remain a charge, and shall see that they are properly relieved and taken care of in the manner required by law. He shall, in cases of necessity, promptly provide medical and surgical attendance for all of the poor in his township who are not provided for in public institutions; and shall also see that such medicines and/or medical supplies and/or special diets and/or nursing as are prescribed by the physician or surgeon in attendance upon the poor are properly furnished.

“He may, in cases of necessity, authorize the payment from township poor relief funds for water, gas and electric services, including the payment of delin-
quent bills for such services, when necessary to prevent their termination or to restore terminated service."

It is to be noted that the care therein described is not necessarily permanent, but that there is a limit placed thereon, the same being, "so long as they remain a charge." During that period, the overseer is directed to provide medical and surgical attendance, supplies, diets and nursing, as prescribed by the physician or surgeon. It is common knowledge that many of these described professional services are available only in hospitals.

Acts of 1957, Ch. 267, Sec. 1, added a new Sec. 5a to Acts of 1935, Ch. 116, which new section was amended in 1961 by Ch. 223, Sec. 1, and which is found in Burns' (1961 Supp.), Section 52-148a. In its original form, the new Section 5a related to one group only, described as indigent persons injured on a public highway, which group was made a charge of the county rather than the township. The 1961 amendment broadened the coverage of the section and defined the term "indigent," and in its present form it reads as follows:

"Sec. 5a. In the event any indigent person is injured or in the event any indigent person who is a nonresident of this state becomes ill in any township of this state, the overseer of the poor in such township shall immediately report such matter to the department of public welfare of the county in which such township is located, which department shall promptly provide medical and hospital care for such indigent person. The cost of any such medical and hospital care so furnished shall be borne by the county of the legal residence of the indigent, or if he has no legal residence in any county of this state by the county in which such township is located; and shall be paid out of any money appropriated to the county welfare department. For the purpose of this act the term indigent person shall mean a person without financial resources to pay for such medical and hospital care."

Before your questions can be answered, it is necessary that we distinguish the responsibilities established by Burns' 52-148 and 52-148a, supra. Although they may appear to be
in conflict, they are really quite definite in their outline of medical and surgical assistance which is to be given by the several township trustees and by the several county departments of public welfare. The persons to be aided fall into three definite groups.

First, there is the group of resident poor persons who need medical and surgical attendance not resulting from injury. These persons are covered by Burns' 52-148, supra, and payment for their care is made the charge of the township trustee.

The second group is composed of persons who are nonresidents of this state and who become ill in any township. These persons are covered by Burns' 52-148a, supra, and the cost of their medical and hospital care is assigned to the county in which they are found. The section places the duty upon the township trustee to notify the county department of public welfare. Pregnancy is not included within this classification, but its cost is to be borne by the township trustee. See: 1961 O. A. G., page 341, No. 55, dated October 6, 1961.

The third group is composed of any indigent persons who are injured. Their medical and hospital care is charged to the county of their legal residence, if they be residents of Indiana, and payment is made out of money appropriated to the county welfare department. If they are nonresident indigent persons, then the cost is charged to the county in which the township of injury is located. The type or manner of injury is not a factor in determining the responsibility.

While Burns' 52-148, supra, places the above-described responsibility upon the several township trustees, it does not prescribe the manner in which that duty shall be performed; nor does it bestow any special privilege upon the trustee with respect to hospital rates. Under the provisions of the section, the township trustee has full bargaining power, and is free to contract with any hospital and to obtain the lowest daily rate possible. Neither does any other section of the statute prohibit the trustee from entering into a contractual relationship with a hospital. Therefore, in answer to your specific questions, it is my opinion that:

1. A township trustee may not arbitrarily pay an amount below the normal rate charged by a hospital for each day's
hospitalization of a poor person who is a resident of his township.

2. A township trustee may not refuse hospital care at the township's expense to a resident who is on the township trustee's relief roll unless such care is made necessary as a result of injury.

3. A township trustee may refuse hospitalization at township expense where such hospitalization is made necessary as a result of injury, regardless of the manner in which the injury may have occurred. In such cases he shall report the matter to his local county department of public welfare in accordance with the provisions of Burns' 52-148a, *supra*.

4. A township trustee may contract with a hospital at an agreed daily rate for the care of persons for whose medical and surgical attendance he is responsible.

5. In your question No. 5, you have requested factual information with respect to existing contractual arrangements between township trustees and hospitals throughout the state. The office of the Attorney General has never been furnished with this statistical material, and I would suggest that you contact the Indiana Township Trustees' Association.

OFFICIAL OPINION NO. 6
January 12, 1962

Mr. James E. McCart
Assistant Commissioner
Department of Correction
804 State Office Building
Indianapolis 4, Indiana

Dear Mr. McCart:

I have before me your request for an Official Opinion upon the following questions:

"1. What would be the personal responsibility or liability of an employee who while driving a state owned automobile became involved in an accident where he was at fault?"