

The terms "capital" and "salaries and expenses" are defined in Section 1 of said bill as follows:

"(2) The term "capital," unless otherwise herein designated or defined, means all articles, fixtures and goods of a permanent nature, but in no event shall the term "capital" mean buildings or lands unless specifically defined herein."

"(6) The term "salaries and expenses" means any expense, including salaries, capital, repairs and replacements and other operation, as defined above."

The question is, does use of the phrase "salaries and expenses" mean any expense whatsoever, or does it include only the items enumerated in said section 6, and defined in sub-section (1)? The answer depends upon whether the word "including" in said sub-section (6) was employed as a term of enlargement, or as a term of limitation, or of enumeration. This word is used in both ways and is susceptible of different shades of meaning. (See 31 C. J., Page 395, Section 3.)

As used in the above worded section it is my opinion that the word was used as a term of limitation or enumeration, and not of enlargement. It is hardly conceivable that the Legislature intended to throw the door wide open and permit the appropriation to be used for any purpose or expense so as to include new buildings. The Legislature was careful to say in sub-section 2, supra, "In no event shall the term capital mean buildings or lands unless specifically defined herein." There would be no limit and no stopping place if money appropriated for salaries and expenses could be used for new buildings. If it could be so spent, thousands of dollars could be spent for new buildings, and in that event no money would be left for salaries, capital, repairs, replacement and operation.

It is interesting to note that in 1935 the Twenty-fourth Legislative Assembly, which employed exactly the same definition on House Bill No. 489, page 461, Laws 1935, after making appropriations for "salaries and expenses" for the State Soldiers' Home added "for new water system, new bakery and cold storage building, \$12,000.00. The Legislature did not rely upon the term

Opinion No. 143.

Legislature—Appropriations.

An appropriation for salaries and expenses to the State Tuberculosis Sanitarium does not permit an expenditure for new building.

August 17, 1937.

State Board of Examiners
Capitol Building

Gentlemen:

You have submitted the question of whether the board of examiners may legally approve a request by the superintendent of the Montana State Tuberculosis Sanitarium to erect a 24 car garage at said sanitarium as a W. P. A. project. It is proposed that the institution expend approximately \$1,800.00 for materials and the W. P. A. will furnish the labor.

House Bill No. 146, Laws 1937, page 628, provides for the following appropriation:

"STATE TUBERCULOSIS SANITARIUM FROM THE GENERAL FUND

For salaries and expenses, ninety-eight thousand, five hundred dollars \$98,500.00

In addition thereto there is hereby appropriated all earnings and all other funds which may accrue to said institution."

“salaries and expenses” to include new buildings or construction.

It is therefore my opinion that the Board of Examiners may not legally approve the request and that the money appropriated for the State Tuberculosis Sanitarium for “salaries and expenses” may not be used for materials for new building.