Where an office is created by statute public officers may exercise only such powers as are expressly authorized by statute.

Blue v. Beach (1900), 155 Ind. 121, 131;  
State ex rel. v. Goldthait (1909), 172 Ind. 210, 216, 217;  
Department of Insurance v. Church Members Relief Association (1940), 217 Ind. 58, 60.

It is clear the foregoing statute authorizing the rental of textbooks to certain pupils excludes township trustees from those authorized to so engage in such activity.

I am therefore of the opinion a township trustee is not authorized to purchase textbooks for the purpose of renting the same to the pupils in the schools.

OFFICIAL OPINION NO. 55
June 4, 1946.

L. E. Burney, M. D.,  
State Health Commissioner,  
Indiana State Board of Health,  
1098 West Michigan Street,  
Indianapolis, Indiana.

Dear Doctor:

Your letter of recent date requests an official opinion as to the persons authorized to sign death certificates under the provisions of Chapter 154 of the Acts of 1945.

Section 8, Chapter 154, Acts of 1945 provides in part as follows:

“(a) Funeral directors or persons in charge of interment shall file with the health officer having jurisdiction in which death occurred, a certificate of death and receive a permit prior to any disposition of the body. In preparing a certificate of death, the person in charge of interment shall obtain and enter on the certificate such personal data as may be required by the state board of health, from the persons best qualified to
supply such data. He shall also present the certificate of death to the physician last in attendance upon the deceased, who shall certify the cause of death.

"(b) If the death occurred without medical attendance, or the physician last in attendance fails to sign the death certificate, the health officer shall investigate and certify to the cause of death on the basis of information obtained from persons having knowledge of the facts. If the circumstances suggest that the death was caused by other than natural causes, the health officer shall refer the case to the coroner for investigation."

Section 9 of Chapter 154 of the Acts of 1945 provides in part as follows:

"Births, stillbirths and deaths must be reported upon standard forms which shall be furnished by the state board of health, also the Burial-Transit forms, monthly report cards and the necessary envelopes used in transmitting certificates to the state registrar on the fourth (4th) day of the following month.

"(b) Health officers, both city and county, shall at all times keep an ample supply of forms on hand in order that they may supply physicians, hospitals and funeral directors. They shall be responsible for obtaining a certificate of all births and deaths occurring within their jurisdiction. * * *

"* * *

"(d) The Indiana state board of health shall adopt and may amend appropriate rules and regulations concerning the reporting of births, deaths and stillbirths."

It is also to be noted Section 63-722 Burns' 1943 Replacement, same being Section 6, Chapter 165, Acts 1939, being the statute governing the regulation of embalmers and funeral directors, provides in part as follows:

"* * * Dead human bodies shall be in no way prepared for burial except in an approved embalming
room by an embalmer licensed to do embalming in the state of Indiana, nor shall any permit for the burial of a dead human body be issued by any health officer in this state to any person other than a duly licensed funeral director.”

The statutes governing the duties of coroners pertinent to this question, are as follows:

Section 49-2904 Burns’ 1933, same being Section 1, Chapter 28, Acts 1879 (Spec. Sess.), provides as follows:

“Every coroner, as soon as he shall be notified that the dead body of any person supposed to have come to his death by violence or casualty is within his county, shall immediately proceed to inquire, upon view of the body, how and in what manner he came to his death.”

Section 49-2908 Burns’ 1933, same being Section 3, Chapter 28, Acts 1879 (Spec. Sess.) reads as follows:

“The coroner, having viewed the body, heard the evidence, and made all necessary inquiry, shall draw up his verdict upon the death under consideration, in writing, and sign the same with his name.”

Section 49-2909 Burns’ 1933, same being Section 4, Chapter 20, Acts 1879 (Spec. Sess.) reads in part as follows:

“The coroner shall also make a report, in writing, giving therein a particular and minute description of the deceased person, together with his name (if the same can be ascertained), and the amount of money and other valuables found with the dead body; which report, with said verdict so found by him, shall be by him filed in the office of the clerk of the circuit court of the county in which said body is found, immediately after his inquest is completed. * * *”

In ascertaining the legislative intent as to a statute, the courts may take into consideration other acts in pari materia, whether passed before or after the Act in question.

Sherfey v. City of Brazil (1938), 213 Ind. 493, 497, 498.
When the above quoted sections of the statutes are considered in pari materia with each other under the foregoing authority it is clear Chapter 154 of the Acts of 1945 requires the State Board of Health to prescribe a standard form of death certificate which shall be furnished the local health officer for the purpose of distribution to persons authorized to prepare and execute such instruments. Said State Board of Health is also authorized to make such reasonable rules and regulations necessary to effectuate and carry out the spirit and intent and the requirements of said statute.

It is to be noted Section 8 of Chapter 154 of the Acts of 1945 clearly provides funeral directors and other persons in charge of interment shall provide a certificate of death and file the same with the local health officer having jurisdiction in which death occurred for the purpose of said health officer issuing a burial certificate thereon. In view of the above quoted part of the statute governing embalmers and funeral directors it is equally clear the only person who could be in charge of the “interment” of the dead body of a person is a duly licensed funeral director. He is also the only one to whom such burial funeral permit may be furnished.

Under Section 8 (a) a funeral director must prepare such certificate of death and enter thereon such personal data as may be required by the State Board of Health to be secured from persons best qualified to supply such data. The funeral director is then required to file this certificate of death with the local health officer and the cause of death must be certified to by either the physician last in attendance or by the local health officer as hereinafter set out.

On the form so prepared by a funeral director it is required the physician last in attendance upon the deceased shall certify as to the cause of death. If the cause of death was without medical attendance, or the physician last in attendance fails to sign the certificate of death, then it becomes incumbent upon the local health officer to investigate and certify to the cause of death on the basis of information obtained from persons having knowledge of the facts.

It is to be further noted the statute requires that if the circumstances suggest death was caused by other than natural causes the health officer shall refer the case to the coroner for investigation. This does not in my opinion
mean the corner certifies as to the cause of death but would only be an additional source of information from which the cause of death could be certified by the local health officer where the attending physician fails to sign or where there was no attending physician.

Attention is called to the fact that when the coroner is notified that the dead body of any person within his county is supposed to have come to his death by violence or casualty that he view the body and inquire how and in what manner such person came to his death. After viewing the body and hearing evidence on an inquest, and after making all necessary inquiry he shall draw his written verdict upon the death under consideration and sign the same and include such certification in his coroner's verdict in that case, which verdict he is required to file with the clerk of the circuit court of the county in which said dead body of such person is found.

Section 49-2906 Burns' 1933, same being Section 8, Chapter 7, 2 R.S. 1852, authorizes a post mortem autopsy by a physician or surgeon be made under the direction of the corner in cases where necessary. This of course would be additional information available in such a case to the health officer for his use in certifying as to the cause of death where he is required to make such certification.

Summarizing the foregoing I am of the opinion Chapter 154 of the Acts of 1945 when considered in harmony with the other statutes heretofore cited requires the funeral director in charge of interment to fill in that part of the certificate of death other than the cause of death. This form of certificate should be adopted by the State Board of Health. The funeral director, must, if possible, secure the signature of the attending physician thereon certifying as to the cause of death. If no physician was in attendance, or if such physician fails to sign such certificate, the funeral director is then required to submit such certificate of death as so filled out by him to the local health officer for his certifying as to the cause of death after such health officer has made due investigation as to such cause of death. Where it is suggested death is caused by violence or casualty such health officer must refer such case to the county coroner and such health officer then may use such information secured from the coroner's investigation in support of the health officer's certification as to such
cause of death. In no case does the corner certify to the cause
of death on the certificate of death. The funeral director does
not sign the certificate of death, and the cause of death should
be certified only by the attending physician or the local health
officer under the facts of the particular case.

OFFICIAL OPINION NO. 56

June 6, 1946.

Hon. John H. Lauer, Chairman,
State Highway Commission of Indiana,
State House Annex,
Indianapolis, Indiana.

Dear Sir:

I have your letter of recent date in which you request a
further clarification of the matters involved in official opinion
No. 123 which I transmitted to you on December 5, 1945. In
order to have a clear understanding of your questions, it will
be necessary to restate them in the light of the additional
facts which you have set forth in your last letter. A state-
ment of the facts together with the questions arising out of
such facts are in substance as follows:

Section 8 of the Federal-Aid Highway Act of 1944
provides that not to exceed $1\frac{1}{2}$% of the amount ap-
portioned for any year to any state shall be used for
surveys, plans, engineering and for highway research
necessary in connection with projects for future con-
struction of highways in this state.

Section 27 of the State Highway Act (as amended
by the Acts of 1935, page 249, same being Section
36-127 of Burns’ 1933 (Pocket Supp.)) provides in
part that the State Highway Commission is further
authorized to cooperate with the United States Gov-
ernment under any federal law in any manner neces-
sary to secure for the State of Indiana the proportion
of any federal appropriation which may be made in
the future.