Your questions are as follows:

"1. Is the township trustee authorized to furnish law books, such as McDonald's treatise, to a justice of the peace of his township and pay the cost thereof from an appropriation for Justice of the Peace supplies?"

"2. Is the township advisory board authorized to appropriate funds for the purchase of law books for the use of justices of the peace?"

It is a matter of common knowledge that most of the justices of the peace, except those holding offices in the larger cities, are laymen and persons unlearned and unskilled in questions of law and matters of legal procedure. It is also universally recognized that McDonald's Justice of the Peace Manual is a legal publication which contains full and complete information on legal questions applicable to justice of peace practice, taxation of fees, complete legal forms and instructions to the justice of the peace as to the proper method of conducting the affairs of his office; and that, unless a justice of the peace has such a work or legal publication available, it is impossible for him to transact and conduct the affairs of his office in an intelligent or legal manner. For the reasons stated it is my opinion that McDonald's Justice of the Peace Manual should be considered a necessary item of supplies to be furnished to any justice of the peace, and therefore, the answer to each of your questions should be in the affirmative.

STATE PERSONNEL BOARD: Vacations with pay, whether pay may be required where vacation can not be given because of termination of service.

April 13, 1943.

Miss Shirley Collier,
Acting Director of State Personnel,
Indiana State Personnel Division,
141 South Meridian Street,
Indianapolis, Indiana.

Dear Miss Collier:

I have your letter of the 5th in which you request an opinion concerning accrued leave of employees of the State Personnel Board; more specifically as follows:
"Mr. W. Leonard Johnson, whose office was abolished by Chapter 101 of the Acts of 1943, was in the classified service under the terms of Sec. 3 of Rule 2. He was therefore entitled to earned vacation at the time of separation from service provided the proper board approved this accrual. This board approved the payment of accrued leave to Mr. Johnson, and a voucher was forwarded to the Auditor's office.

"Under the foregoing facts and laws and regulations:

"1. May Mr. W. Leonard Johnson be paid the amount due him (approximately eleven days' accrued leave) in view of the action of the Indiana Personnel Board in approving such payment? Should the auditor draw his warrant and the treasurer pay the same?

"2. May the Indiana Personnel Board approve and authorize the taking of accrued leave with pay by employees in the Indiana State Personnel Division, which leave had accrued at the time their positions were abolished under the terms of Chapter 101 of the Acts of 1943; this notwithstanding that they are now working under a new appointment?"

Section 3 of Rule 11, Rules and Regulations of the Indiana State Personnel Board provides:

"Sec. 3. Vacation Leave. Vacation leaves with pay shall be earned by all regular permanent employees in the classified service at the rate of one working day for each full month of service, except that county welfare departments, to comply with local custom, may grant employees less but not more than one working day's vacation for each full month of service. In cases where such exception is made, county welfare boards shall make a report in writing to the personnel board stating the reasons therefor. No vacations shall be granted during the original working test period, but upon completion thereof, vacation time shall be allowed for time served during such period. Appointing authorities shall determine the time at which vacations shall be taken. Vacations may be accumulated for not more than eighteen working days. In computing vacations,
all official holidays shall be deducted and Saturdays shall count as a whole day. Vacations earned but not taken prior to January 1, 1942, under the policies of the former Bureau of Personnel affecting the State Department of Public Welfare, the Employment Security Division and State Board of Health, and vacations earned but not taken prior to July 1, 1941, for all other institutions and departments enumerated in Rule 1 (b), will be allowed for those employees on the pay roll January 1, 1942. The provisions of this section will become effective as of January 1, 1942.”

That rule necessarily became a part of a contract of employment and the rights of the employee vested thereunder.

In the very few cases arising under state regulations or statutes concerning the right to accrued vacation pay after the termination of employment, the decisions have turned upon a determination whether this earned and accrued leave is compensation or a gratuity.

In a recent Michigan case—Rainey v. State, 296 N. W. 323 (1941), I believe the proper result was reached. In that case the Legislature, in effect, abolished the position held by the plaintiff who was held entitled to the earned vacation pay upon termination. It is true that Rule 17 of the Civil Service Commission of Michigan expressly provided that upon separation the employee should be entitled to accrued vacation pay. The Court, however, did not rely upon the express provision of Rule 17 as much as it did upon the premise that a “vacation with pay is not a gratuity; it is compensation for services rendered.”

Such, in my opinion, is the proper interpretation of Section 3 of Rule 11. The whole tenor of that rule seems to import that one who renders faithful service thereby earns and is entitled to an additional reward—a right to vacation with pay. Consequently, the right having accrued and vested it cannot, constitutionally, be taken away by the termination of the employment, whatever the means of termination. Therefore, my opinion upon your first question is that the pay for Mr. Johnson should be approved and the Auditor should issue his warrant therefor.
The second question presents a different problem. Since the State Personnel Board under which the vacation was earned is extinguished by Chapter 101 of the Acts of 1943, it is difficult to see how the right to accrued vacation leave from that Board may be transferred to a new board, the Indiana Personnel Board. Therefore, I am of the opinion that the only right remaining in the employee is that of vested right to pay. See the opinion of the Attorney General to the Indiana Personnel Board dated March 9, 1943.

The answer to the second question herein should be limited to the exact fact situation presented and not extended to others.

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INDIANA STATE POLICE: Whether State may pay insurance premiums to protect state policemen.

Mr. Don F. Stiver, Superintendent,
Indiana State Police,
Indianapolis, Indiana.

Dear Mr. Stiver:

This is to acknowledge your letter of April 5 in which you make the following request:

"Will you kindly furnish me with an official opinion as to whether or not under the 1941 Acts, Chapter 52, it is legal for a department of state government to pay out of its appropriation for insurance on state-owned automobiles, insuring the personal interest of the individual operator for property damage and public liability."

As preliminary to the determination of the main question, it is probably advisable to dispose of one or two collateral considerations. It will be noted that Chapter 52 of the Acts of 1941 (39-1819, Burns' 1940 Replacement) is not mandatory and consequently the department or municipality involved is not required to purchase such insurance. Further, in view of the empowering nature of the Act and its indecisive wording in this regard, I do not intend in this opinion to pass upon