PUBLIC INSTRUCTION, DEPARTMENT OF: Dependent Children—Responsibility for education of dependent children in orphans' homes; also responsibility for furnishing necessary books and supplies.

July 28, 1942.

Hon. Clement T. Malan,
State Superintendent of Public Instruction,
State House,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter enclosing a letter from the City Superintendent of Schools at Mishawaka, submitting to you the question of the responsibility for providing school books and other supplies to dependent children in the Orphans' Home at Mishawaka. It is explained that these children are sent from cities and townships outside of the City of Mishawaka. The letter further states that most of the trustees refuse to supply school books and other supplies to these children, although they have transferred them to the public schools of Mishawaka. The question submitted and which you desire to have answered is, as to where the responsibility rests.

Section 28-3711 of Burns' Indiana Statutes Annotated (1933) provides, among other things, that dependent children in orphans' homes or custodial institutions for dependent children shall be educated by the township trustees or the school board of the corporation in which the custodial institution or orphans' home is located. Later on in the same section it is provided that "A transfer certificate shall be issued by the trustee or school board where such child has a legal settlement for each dependent child in such custodial institution or orphans' home, * * *." This certificate is to be sent to the proper school officer or officers of the school corporation where the custodial institution or orphans' home is located.

Other sections of the statutes provide for the payment by the transferring corporation to the corporation to which the transfer issues, the cost of such education on the same basis as other transfers are paid. See the Official Opinions of the Attorney General issued on November 17, 1939, Opinions of the Attorney General 1939, page 322.
Referring now to the Compulsory Education Law, Section 28-512 of Burns' Indiana Statutes Annotated (1933) provides as follows:

"If any parent, guardian or other person having control or charge of any child subject to the provisions of this act does not have sufficient means to furnish such child with books, school supplies and clothing necessary to the attendance upon school, then the school corporation wherein such child resides shall furnish temporary aid for such purpose, which aid shall be allowed and repaid to such school corporation by the township overseer of the poor, in the manner provided by law for the relief of the poor, upon presentation of an itemized statement of such temporary aid."

It would thus appear that the primary duty rests upon the school corporation where the child is to furnish the necessary books and school supplies in the first instance, the same to be collected from the township overseer of the poor of the township or corporation wherein the child has a legal settlement.

STATE SOIL CONSERVATION COMMITTEE: Whether employees of Conservation Department are within the scope of the Workmen's Compensation Act.

WORKMEN'S COMPENSATION: Whether employees of Conservation Department are within the scope of the Workmen's Compensation Act.

August 5, 1942.

State Soil Conservation Committee,
Lafayette, Indiana.

Gentlemen:

This is in response to your request for an official opinion upon the following questions, to-wit:

"1. Under Section 73, Acts of 1929—(a) 'employer' shall include the state and any political division, any individual, firm, association or corporation or the receiver or trustee of the same, or the legal representa-