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.

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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-
tives of a deceased person, using the services of another for pay. Therefore, is the District an 'employer' of labor and subject to Act of 1929 (workmen's compensation) ?"

"2. Under Section 9, Act of 1929, it states that this act except Section 66, 'shall not apply to casual laborers, as defined in clause (b) of Section 73, nor to farm or agricultural employees. * * *' The District employs a tractor driver to operate a tractor on loan from the government. He only works casually, perhaps two days a week and for not more than 12 weeks. Can the District claim exemption under the above section if it is subject to the workmen's compensation act of 1929?"

In answer to your first question above quoted, I direct your attention to the Soil Conservation Districts Act of 1937 wherein the word "District" or "soil conservation district" is defined as follows:

"** * * a governmental subdivision of this state, and a public body corporate and politic, organized in accordance with the provisions of this act for the purposes, with the powers, and subject to the restrictions hereinafter set forth."

(Burns' Indiana Statutes Annotated (1942 Supp.), Sec. 15-1803, subdivision (1); Acts 1937, Chapter 232, Sec. 3.)

Having the foregoing definition before us, it is only necessary to refer you to subsection (a) of Section 73 of the Acts of 1929, as amended in 1933, as the same appears in Burns' Indiana Statutes Annotated, 1940 Replacement, as Section 40-1701, subsection (a), which gives the definition of an "employer" in the Workmen's Compensation Act and reads as follows, to-wit:

"(a) 'Employer' shall include the state and any political division, any municipal corporation within the state, any individual, firm, association or corporation or the receiver or trustee of the same, or the legal representatives of a deceased person, using the serv-
ices of another for pay. If the employer is insured it shall include his insurer so far as applicable.”

Construing the two above quotations together, I find that the “District” is a governmental subdivision of this state and that all political divisions of the state come under the Workmen’s Compensation Act. Therefore, the answer to your first question is that the soil conservation districts, if they employ labor to carry out the purpose of the act creating them, come within the purview of the Indiana Workmen’s Compensation Act because of the compulsory proviso pertaining to the state and its political divisions which is found in Burns’ Indiana Statutes Annotated, 1940 Replacement, Section 40-1218, which reads as follows, to-wit:

“The provisions of this act shall apply to the state, to all political divisions thereof, to all municipal corporations within the state, to persons, partnerships and corporations engaged in mining coal, and to the employees thereof, without any right of exemption from the compensation provisions hereof.”

The answer to your second question as to whether or not a tractor driver hired by any district would be an employee or only a casual laborer would have to rest entirely upon the facts in each case. It is true that the Workmen’s Compensation Act does not apply to casual laborers, and a casual laborer, under the Workmen’s Compensation Act, is defined as being:

“* * * one whose employment is both casual and not in the usual course of the trade, business, occupation or profession of the employer.”

(Burns’ Indiana Statutes Annotated, 1940 Replacement, Section 40-1701, subsection (b).)

The test to be applied to your specific question in regard to the tractor driver is not the amount of hours or days that he works per week but whether or not when he is working he is doing work which is in the usual course of the business of the district as provided for in the section enumerating the powers and duties of the districts. To answer the question, another might be put, to-wit: Is the laborer or tractor driver doing work which the “District” is empowered to do and
actually engaged in at the time? If the answer to the foregoing question is "yes", then as an "employee" of the district he comes within the purview of the Workmen's Compensation Act and his injuries, if any, while so engaged in such work would be compensable.

In connection with the above, however, I feel that I should direct your attention to an additional exception in the Workmen's Compensation Act, that is, the exception excluding farm or agricultural employees from the provisions of that act. I do this because the very purpose of the Soil Conservation Act is to preserve the soil of the state in order to promote and benefit agriculture. It is conceivable that some of the work being carried out by the various districts might be farming and the employment of farm hands, for which exemption could be claimed under the Workmen's Compensation Act.

I am of the opinion, in conclusion, that the tractor driver in this particular case where the tractor is used only for the purpose of constructing diversion terraces and waterways on cooperators' farms is an employee of the district and is a part-time employee under the Workmen's Compensation Act and, therefore, any injuries received by him within the scope of his employment would be compensable under the Workmen's Compensation Act.

SECRETARY OF STATE: Securities—Whether the Empire Gas and Fuel Company of Delaware is subject to regulation by the Securities Commission.

August 11, 1942.

Hon. Maurice G. Robinson,
Secretary of State,
State House,
Indianapolis, Indiana.

Dear Mr. Robinson:

I have before me your letter of August 4 asking for an official opinion as to whether or not the Empire Gas and Fuel Company, a Delaware Corporation, is subject to the supervision of State Securities Commission with respect to the proposed issue of that Corporation's 3½% Sinking Fund Debentures in exchange for its outstanding preferred stock. It is