such school corporation as determined by the total vote cast at last general election for the trustee of any such township, or for the clerk of any such town, or for the mayor of any such city, requesting the establishment of such a high school library, be filed with the township trustee, board of school trustees or board of school commissioners of any such school corporation as hereinafter provided. (Acts 1939, ch. 84, sec. 1, p. 477.)"

It is to be noted that both sections of the act set out above provide for school libraries for the respective school corporations. Section 28-2402, Burns' Annotated Statutes, 1933, makes provision for the creation of distinct municipal corporations for school purposes in townships, towns and cities. The schools operated by these corporations constitute the public school system of the State of Indiana. The governing units for these school corporations are the township trustees in townships, the boards of school trustees in towns and the boards of school commissioners of cities. By making express reference to the township trustees, the board of school trustees and the board of school commissioners of townships, towns and cities in those sections of the statutes set out above, it is my opinion that the legislature intended to make the textbook law apply only to public schools as distinguished from parochial or private schools. It is my opinion, therefore, that your question should be answered in the negative.

PUBLIC INSTRUCTION: Whether a township under Acts of 1919, page 686, may contract with a city involved in the consolidation to pay for part of the capital investment.

August 19, 1941.

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

Dear Sir:

I have before me your letter of August 12, 1941, submitting the following questions:
“May a township under the Acts of 1919, page 686, providing for contractual consolidation of schools between a city and a township, contract with a school board to pay for a part of the capital investment?”


In brief this act authorizes contracts between the Board of School Commissioners of an incorporated city or town of not more than 6,000 population for the acquisition, erection, control, and maintenance of a high school in said city or town for the use of all school children in the township in which said city or town is located.

The Act specifically provides that this expense of the school project shall be apportioned between the school city and the township in the following proportion, to wit:

“And in any such contract it may be provided that the expense of such joint care, custody, repairs, erection of buildings, management, maintenance, support, conduct and control may be borne pro rata by such incorporated city and by such township in such proportion as the number of pupils enrolled in such high schools from such townships outside of such city bears to the number of pupils enrolled in such high school within such city or town.”

Certainly the foregoing language is sufficient authority for a township to enter into a contract with a school board to pay for a part of the capital investment.

The language providing for the purchase and sale of real estate as used in said act and the words “erection of building or buildings” in the language above quoted, very clearly contemplate capital investment as distinguished from operating cost. The language used is all comprehensive and inclusive.

While it is clear that this language is authority for the making of such a contract, neither the school city or township may contract to pay any more or less than the amount apportioned to each by the Act.

**Question 2.**

“Would the contract be modified or changed by the transfer law which prohibits a school city from col-
lecting from the township for capital investment for building and limiting transfer cost to operating expenses?"

Question 2 evidently has reference to transfer tuition costs of pupils. This involves an actual transfer of a pupil from one school corporation to another. But here there is no transfer of a pupil from one school corporation to another. The situation here involved is very much like that of a merger of corporations where the surviving corporation assumes the identity of all the other corporations merging into it. The city-township high school becomes, in a sense, the high school for the township and the high school for the city. It is a two-in-one unit. It is physically impossible to effect a transfer of a pupil within one unit within the meaning of the laws to which your second question refers.

To hold otherwise would be to defeat the manifest purpose and intent of the legislature and as it is the policy to support and uphold the laws of the assembly that construction which will achieve that end should be adopted.

PURDUE UNIVERSITY: Construction of 1941 Act providing for free tuition for children of World War Veterans.

August 19, 1941.

Trustees of Purdue University,
Lafayette, Indiana.

Gentlemen:

I have before me your letter calling attention to Chapter 117 of the Acts of 1941 (Acts of 1941, page 328), and requesting an official opinion in answer to certain questions submitted by you.

The Act consists of one section which reads as follows:

"That any person who is a pupil of the Soldiers’ and Sailors’ Children’s Home, or any person who for five years preceding application therefor, shall have had his domicile in the State of Indiana and whose father served in the armed forces of the United States between the sixth day of April, 1917, and the second