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
day of July, 1921, and who was wounded, gassed or disabled as evidenced by the United States War or Navy Department records, or who is suffering from a service-connected disability as evidenced by the Veterans' Administration records, and who possesses the requisite academic qualifications, shall be entitled to enter, remain and receive instruction in Indiana University, Purdue University, Indiana State Teachers College at Terre Haute and Ball State Teachers College at Muncie, upon the same conditions, qualifications and regulations prescribed for other applicants for admission to, or scholars in, such educational institutions, without the payment of any tuition or matriculation fees, for a period of four years while pursuing any prescribed course of education therein. In event any such applicant is permitted to matriculate in such state institutions of learning, and shall qualify under the provisions of this act, and shall have earned or been awarded a cash scholarship which is paid or payable to such institution, from whatsoever source, the amount of such scholarship so paid shall be applied to the credit of such applicant in the payment of incidental expenses of his attendance at such institution, and any balance, if the terms of the scholarship permit, shall be returned to such applicant."

The first question submitted is as follows:

"Question 1: Is a person who was entitled to and did receive the benefits of Chapter 69 of the Acts of the Indiana General Assembly of 1935, who continues his enrollment in the University with the term beginning September, 1941, entitled to continued remission of fees?"

The 1941 Act is an amendment of Section 1 of a similar Act passed in 1935. Acts of 1935 p. 173. The effect of the amendment of a section of an act is to substitute the section as amended for the section as it originally existed before amendment, so as to give effect prospectively to the section as amended as though it has always been a part of the act. I doubt whether the passage of an act such as the 1935 Act constitutes an offer which, when accepted, gives rise to a
contractual status. However, I do not think the amendment of the 1935 Act evidences any intention upon the part of the legislature to alter the status of persons already receiving the benefit of that Act. In other words, I think it is fair to assume that persons having entered upon a course as provided in the 1935 Act would be entitled to complete that course. The answer to the first question is in the affirmative.

Your second question is as follows:

"Question 2: Is a person whose father 'was killed in action' to be considered as eligible to the benefits of the 1941 act?"

I think this question also should be answered in the affirmative. The 1935 Act provides that any person who is a pupil of the Soldiers' and Sailors' Children's Home, and any person not under sixteen (16) nor over twenty-one (21) years of age, who for twelve (12) months preceding application therefore shall have had his domicile in the State of Indiana, and whose father was "killed in action or died from wounds or other cause while serving in the armed forces of the United States between April 6, 1917, and July 2, 1921, * * * * shall be entitled to enter, remain, and receive instruction," etc. The amended section omitted the language "killed in action" and substituted the language "who was wounded, gassed or disabled." It seems to me, however, that it is proper to examine both acts for the purpose of arriving at a correct construction of the latter, and when that is done, I think it is evident that the language of the 1941 Act providing for benefits for what would appear to be the lesser catastrophe should be construed to comprehend that which is greater, to-wit: "death." I think it is evident that the legislature in using the words "wounded, gassed or disabled" intended to broaden the right to benefits rather than to restrict them. The answer to the second question is in the affirmative, assuming, of course, that all of the other prerequisites are present.

Your third question is as follows:

"Question 3: Does the word 'father' in line 6 of the new act include 'step father,' 'foster father,' or other than the natural male parent of the person seeking the benefits of the act?"

In answering the above question I think it is clear that the word "father" as used in line 6 of the new act does not include
step father or foster father. As to whether the word "father" includes anyone other than the natural male parent of the person seeking the benefits of the act, this question is reserved for answer in answering your question four, which is as follows:

"Question 4: Is an adopted child entitled to the benefits of the 1941 Act?"

If your question is whether or not the child of a father "who was wounded, gassed or disabled," etc., which child has since been adopted by someone else is entitled to this benefit, then my answer would have to be in the negative. I think the clear intention of this Act was to provide some of the benefits which a natural parent would normally provide for his children had opportunity not been deprived the parent because of disability obtained through service for his country. However, if the child of such a person has since been adopted by someone else, then the adoptive parent has assumed the responsibility for the care and education of that child and the natural parent has been relieved of that right. Therefore, it is my opinion that the child would not be entitled, under these circumstances to the benefits of this Act.

If however, you mean to inquire by this question whether or not the adopted child of a veteran who comes within the terms of this Act as to disability, et cetera, is entitled to the benefits of this Act, then my answer is in the affirmative. When an adoptive father adopts a child, his status with reference to his duty to furnish support, care and education for the child becomes the same as though he were the natural father and since the intent of this Act seems to be to have the State assume some of the burden of education which the father, whether natural or adoptive, would ordinarily assume had he not been deprived or handicapped because of physical disability obtained in serving his country, it is, therefore, my opinion that the Legislature intended to include the adopted children of such veterans as well as their natural offspring.

Your fifth question is as follows:

"Question 5: What interpretation shall be placed upon the following language in the 1941 Act, 'Any person *** shall be entitled to enter, remain and receive instruction in *** Purdue University *** for a period of four years while pursuing any prescribed course of education therein'?"
"(a) Must this be construed to mean residence in terms of years, or in terms of academic units or credits?

"(b) Is a person otherwise eligible under the Act, entitled to enter the summer session of Purdue University without the payment of any tuition or matriculation fees, as provided in the Act?

"For your information, in rendering an opinion, the officers of the University desire that you know that the summer session at Purdue is not a regular term or semester of the University. It is conducted at the University under the sponsorship and supervision of the Director of the Summer Session. It is wholly self-sustaining, the fees received from students in attendance being divided upon an equitable basis among the instructors and officers who take part in the work. Recognition is given by the University for work done by the students at the summer session, but the summer session is not a prescribed course of education at Purdue. Accordingly, the officers are firmly of the opinion that a person attending the summer session at Purdue is not 'pursuing any prescribed course of education,' and should, therefore, not receive any remission of fees charged therefor."

Answering particularly your subdivision (a), I think the language used should be construed as meaning "residence in terms of years."

Upon the basis of the facts as stated by you in your letter, I think your subdivision (b) should be answered in the negative. In other words, the benefit accorded should be considered as coming from the State rather than the institution as such, and if the summer session, except for the use of equipment is sustained solely from the fees paid, the remission of fees required by the Act in such a case would amount to a contribution either by the teachers in a smaller remuneration, or by the other pupils in a large fee, which clearly is not intended. Your sixth question is as follows:

"Question 6: Can a person eligible under the 1941 Act, be denied the benefits thereof solely because he has been awarded, or is being considered for an award
of funds provided from sources outside of the regular funds of the institution?"

The answer to this question is in the negative.
Your seventh question is as follows:

"Question 7: The question is raised whether a person entitled to the benefits of the act who enrolls as a student in the University in September, 1941, and fails to make demand for the benefits of this Act, is entitled to a refund of the fees already paid for the semester which is in progress."

I do not think there is anything in the Act upon the subject concerning which you are inquiring in this question. Of course, the duty devolves upon the applicant to file and establish his claim to benefits under the Act. It seems to me, therefore, that if that is not done until after the semester has begun, refunds should be made on the same basis as upon withdrawal or other similar instances entitling the ordinary pupils to a refund.

SECRETARY OF STATE: Whether domestic corporations re-organizing under 1929 Act must include the words "Inc.," or "Incorporated" or "Corporation" or abbreviations thereof as a part of their name.

CORPORATIONS: Whether domestic corporations re-organizing under 1929 Act must include the words "Inc.," or "Incorporated" or "Corporation" or abbreviations thereof as a part of their name.

August 19, 1941.

Mr. Fred E. Shick,
Chief Corporation Counsel,
Office of Secretary of State,
State House,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter of the 31st ult., requesting my opinion in answer to the following question: