LABOR DIVISION: Status of students in universities who are employed part time by the university—as to necessity of certificates under the Child Labor Law, et cetera.

Mrs. Mary L. Garner, Director,
Bureau of Women and Children,
Division of Labor,
404 State Capitol,
Indianapolis, Indiana.

November 28, 1941.

Dear Madam:

I have your letter of November 17, 1941, wherein you set forth that your division employs many freshman students for part-time work in earning their board in college residence halls, dining halls and cafeterias. In connection therewith, you put the following three questions, to-wit:

"1. Should students employed in such work secure minors' age certificates under the School Attendance Child Labor Law when the students are under eighteen (18) years of age?"

"2. Would a university or academy be entitled to term waiting on table 'domestic labor' and, therefore, claim these students as being exempt?"

"3. May the board obtained by these students for the work done be considered as an equivalent of money which would otherwise be paid to the students for the work done?"

In answer to your first question, we direct your attention to a part of Section 28-519, Burns' Indiana Statutes Annotated, 1933 (1941 Supp.), wherein the following provision is made:

"It shall be unlawful for any person, firm or corporation to hire or employ or permit any minor between the ages of fourteen (14) and eighteen (18) years to work in any gainful occupation until such person, firm or corporation shall have secured and placed on file in the office of such person, firm or corporation a certificate issued by the issuing officer, as hereinafter defined, of the school corporation in which said minor resides. Upon the request of any employer who desires to employ a
minor who represents his or her age to be between eighteen (18) and twenty-one (21) years, it shall be the duty of the issuing officer to issue a certificate to such minor."

I know of no provision exempting these students from obtaining the certificate required in the above cited section.

In answer to your second question I again direct your attention to Section 28-519, Burns' Indiana Statutes Annotated, 1933 (1941 Supp.), the pertinent portion of which reads as follows:

"No certificate shall be required for any minor between the ages of fourteen (14) and sixteen (16) years to perform farm labor or domestic service or to perform the duties or to work or act as a caddie to any person or persons who are engaged in playing the game of golf or as a carrier of newspapers, during the hours when schools of the school corporation in which such minors reside are not in session. The issuing officer of such school corporation or the person authorized by him in writing so to act shall issue such certificate only to a minor whose employment is necessary and not prohibited by law, and only upon receipt of the following four (4) documents herein referred to as proof of age, proof of physical fitness, proof of schooling, and proof of prospective employment."

It would seem from the foregoing that minors between the ages of fourteen (14) and sixteen (16) may perform domestic service during the certain specified hours above noted without a certificate.

The term "domestic service" or "domestic labor," of course, has a particular meaning and refers to a domestic servant and, according to Webster's International Dictionary, as well as Bouvier's Law Dictionary, a domestic servant is defined as a "house servant; a household assistant; or one who lives in the family of another." The construction placed upon the term as used in the statute must be the same as that in common usage. The term "domestic labor" could not be used as applying to these students even though the students perhaps did work that domestic laborers are required to do.

I am of the opinion that the universities or academies would not be entitled to claim any exemption on the theory that these students are doing "domestic labor."
In answer to your third question, I am of the opinion that the board received by the students could properly be deducted from the money contracted to be paid to the students if this arrangement was entered into with the students previous to their taking the employment. I know of no prohibition for deducting the amount of the board received by the students from the monies contracted to be paid to the students for the work to be performed by them, if that is the understanding.

TAX BOARD: Installment settlements of insurance policies—whether such are taxable when provided for in the policy; whether same are taxable as intangibles where the settlement is not provided for in the original policy.

December 4, 1941.

Hon. Judson H. West, Admr.,
Intangibles Tax Division,
State Tax Board,
Indianapolis, Indiana.

Dear Sir:

I have before me your request for an official opinion in answer to the following questions:

"1. Where a policy of insurance becomes a claim and the beneficiary elects to leave the proceeds with the company under one of the Options of Settlement in the Contract and the beneficiary retains possession of the original policy of insurance, does the law require that this Contract have the Indiana Intangibles Tax Stamps affixed thereto?"

"2. Where a policy of insurance becomes a claim and the beneficiary elects to leave the proceeds with the Company under one of the Options of Settlement, and the Company takes up the original Contract of insurance and issues a supplementary Contract to the beneficiary, does the law require that this Contract have the Indiana Intangibles Tax Stamps affixed thereto?"

Section 1 (b) of the General Intangibles Tax Act provides expressly that life insurance policies shall not be considered as intangibles under the Act.

Act of 1933, p. 524.