ADJUTANT GENERAL: Whether privately owned properties leased by state for use as National Guard Armories are tax exempt.

April 19, 1933.

Hon. Elmer F. Straub,
Adjudant General,
Indianapolis, Indiana.

Dear Sir:

In your letter of April 8, 1933, you ask whether or not privately owned properties, leased by the State of Indiana for use as National Guard Armories, are tax exempt.

This question arises under the 24th paragraph of Section 1 of the Act of March 9, 1923 (Acts 1923, page 558), which provides:

"Twenty-Fourth. That all real estate and personal property used exclusively by the Indiana National Guard or any other military organization of the state for armory purposes, shall be exempt from taxation so long as the same is used exclusively for such purposes." (Our italics.)

This act was passed under the purported authority of Article 10, Clause 1, of the Constitution (Section 200, Burns' Annotated Indiana Statutes, Revision of 1926), which provides:

"The general assembly shall provide, by law, for a uniform and equal rate of assessment and taxation; and shall prescribe such regulations as shall secure a just valuation for taxation of all property, both real and personal, excepting such only, for municipal, educational, literary, scientific, religious or charitable purposes, as may especially be exempted by law."

The precise question presented by your letter was before the Supreme Court of Indiana in the case of Spohn v. Stark, Treasurer, 197 Ind. 399, and was answered in the negative.

In holding that privately owned property leased by the State of Indiana for armory purposes was not tax exempt, the court said:

"A just valuation for taxation of all property, except such only, for municipal, educational, literary, scientific, religious, or charitable purposes, as may be espe-
cially exempted by law, does not permit the exemption from taxation of an interest in property which is used for rental purposes, and thereby is made to produce an income from the rents received, merely because the lessee may devote the leasehold to a municipal, educational, literary, scientific, religious, or charitable purpose; and the general assembly would have no authority to exempt the lessor from payment of taxes on property so used, even though it should undertake to do so. * * * And we do not think that the property, to the extent of his (the plaintiff's) interest therein, 'is used exclusively' for armory purposes by the Indiana National Guard, within the meaning of the statute, interpreted as it must be in view of the constitutional limitation on the power of the legislature to exempt property from taxation."

This being the last word of the Supreme Court of Indiana on this subject matter, it is decisive of the question presented.

CONSERVATION DEPARTMENT: Compensation liability of state in case of injury to workmen in civilian conservation corps, state forestry division.

April 20, 1933.

Mr. Joseph F. Kaylor,
Assistant State Forester,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter in which you state that Indiana is preparing to participate in the enrollment of 6,500 men, and the employment of 1,600 of these men in the Civilian Conservation Corps, under and pursuant to the act of Congress approved March 31, 1933, entitled "An Act for the relief of unemployment through the performance of useful public work, and for other purposes."

You desire an opinion relative to the workmen's compensation liability in case of the injury of any of these men. Under Section 2 of the above act of Congress the President is authorized to enter into such contracts or agreements with states as may be necessary, including provisions for utilization of ex-