Your third question is answered in the negative.
Chapter 96, section 2, Acts of 1933;

WEIGHTS AND MEASURES, DEPARTMENT OF: Appointment and dismissal of weights and measures men in different counties and cities throughout state.

May 9, 1933.

Hon. Martin L. Lang,
State Commissioner of Weights and Measures,
State Board of Health,
State House Annex,
City.

Dear Sir:
I have before me your letter of May 3rd, in regard to the appointment and dismissal of weights and measures men in the different counties and cities throughout the state, your question being as follows:

"Please advise or give me an opinion in regard to the appointing or dismissing of the weights and measures and food and drug men in the different counties and cities throughout the state, or if same is taken care of by chapter 4, Acts of 1933. I am enclosing from this department Acts of 1925, chapter 86, page 247, section 4, in part, weights and measures."

In answer to your letter, I must refer you to the Acts of 1925, page 247, sections 3, 4 and 6 of that act, the pertinent part of these sections being as follows:
Section 3 of Burns Revised Statutes of 1926, 14570:

"The board of commissioners of every county of thirty thousand population or more shall, and the board of commissioners of any county of less than thirty thousand population may appoint a county inspector of weights and measures. No person shall be appointed as a county inspector of weights and measures in any county unless such person shall have been approved by the state commissioner of weights and measures, and no county inspector of weights and measures in any
county shall be removed by the board of commissioners without the approval and consent of the state commissioner of weights and measures. * * * The board shall provide the necessary apparatus and supplies for the said inspector of weights and measures and the county councils of such counties shall appropriate such sums of money as are necessary for the salary and maintenance of the office.”

The part of section 4 or of section 14571, Burns Revised Statutes of 1926, applicable to your question is as follows:

“The common council of every city of the first, second and third class shall provide for the appointment by the commissioners of the public safety, commonly known as the board of public safety, of an inspector of weights and measures and provide for his compensation and for the necessary apparatus and expenses to be paid out of the city treasury. The said inspector of weights and measures shall serve continuously during good behavior under the provisions of section 160 of an act concerning municipal corporations, approved March 6, 1905, governing the fire and police force, and said inspector of weights and measures shall not be removed for any political reason and only for good and sufficient cause after an opportunity for hearing is given by the said commissioners of public safety: Provided, however, That such provision shall not affect the power of the state commissioner of weights and measures to discharge county or city inspectors of weights and measures as set forth in section 6 of this act. No person shall be appointed as a city inspector of weights and measures in any city unless such person shall have been approved by the state commissioner of weights and measures and no such city inspector of weights and measures shall be removed without the approval and consent of the state commissioner of weights and measures.”

You have already quoted to me the part of section 6 applying to the removal of such inspectors, but I am referring again to it, being Section 14573, Burns’ Revised Statutes of 1926, and the part thereof which is applicable, is as follows:
“Only those persons shall be eligible to appointment to the position of county or city inspectors of weights and measures who, at the time of the passage of this act, are county or city sealers or inspectors of weights and measures or who have passed an examination which shall be given by the state commissioner of weights and measures to test the ability of the person so examined to perform satisfactorily the duties of a county or city inspector of weights and measures. If it is evident to the state commissioner of weights and measures that any county or city inspector of weights and measures is not properly and faithfully performing the duties of his office, the state commissioner of weights and measures shall have power to discharge such county or city inspector of weights and measures. Such removal, however, shall not be made until five days’ notice of the charge or charges shall have been mailed to him by said commissioner, naming a time and place for a hearing, not less than two weeks later than the time of mailing such notice to said county or city inspector of weights and measures: Provided, however, That any county or city inspector of weights and measures so removed by the state commissioner of weights and measures, shall have the right to appeal from the action of said commissioner to the circuit or superior court of the county in which such county or city inspector of weights and measures resides, and during the pendency of such appeal, such county or city inspector of weights and measures may serve in his official capacity.”

You will note from the reading of the several sections that these inspectors are employed by the board of commissioners of the several counties or the board of public safety of the cities and are paid by the counties or city in question. I cannot find anywhere in reading the act where there is an authority in the state or any official of the state to employ such county and city inspectors of weights and measures except that there is a provision that no person shall be appointed in either place unless approved by the state commissioner nor can such inspector be removed except with the consent of the state commissioner. The state commissioner, therefore, exer-
cises no appointive power and no appointive power is vested in any of the executive or administrative departments of the State of Indiana.

It is, therefore, my opinion that chapter 4 of the Acts of 1933, approved February 3, 1933, does not apply to the appointment or dismissal of county and city inspectors of weights and measures, as that act applies only to the executive, including the administrative departments of the government of the State of Indiana, and the express purposes as set out in section 1 of the act is concerned only with the executive and administrative government of the state.

GOVERNOR: Poor relief, whether chapter 91 of Acts of 1931 applies to purchase of coal for such relief.

May 10, 1933.

Hon. Wayne Coy,
Under Secretary to the Governor,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter requesting an opinion as to whether chapter 91 of the Acts of 1931 applies to the case of furnishing coal for poor relief.

Section 1 of the above act provides as follows:

"The board of trustees or other officer in charge of every institution in the State of Indiana which is supported in whole or in part by public funds, and who are authorized and required to purchase coal for fuel purposes in the operation of any such institution, shall be required to purchase and use coal which is mined in the State of Indiana, if the cost of coal mined in the State of Indiana is not more than ten per cent greater than the cost of coal mined in any other state or states, including the cost of transportation." (Our italics.)


Section 2 of said act provides that:

"The term 'institution' as used in this act shall be construed to include all institutions maintained by the