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
state or by any municipal corporation or political subdivision thereof."


The act is entitled:

"An act concerning the use of coal mined in the State of Indiana in the institutions of the state and the several municipal corporations or political subdivisions thereof." (Our italics.)

In addition to the definition as set out in section 2, supra, the word "institution" is defined by recognized lexicographers as follows:

"An established or organized society or corporation; an establishment, esp. one of a public character, * * * also, a building or the buildings occupied by such organization."

Webster's New International Dictionary.

"A corporate body or establishment instituted and organized for public use, or the building occupied by such a corporate body."


While, as appears from the foregoing definitions, the term "institution" may be used properly to designate any corporate entity instituted to promote some public purpose, when the term as used in the above act is considered in relation to its context, I do not think it can be held to mean such corporate entity. It will be noted that the title of the act is "An act concerning the use of coal * * * in the institutions of the State of Indiana." * * * (Our italics.) Note also the language of section 1. "The board of trustees or other office in charge of every institution" * * * "and who are authorized and required to purchase coal for fuel purposes in the operation of any such institution." * * * (Our italics.)

I think it is clear from the foregoing that the term "institution" as used in the above act does not refer to public corporate entities, boards or commissions as such, established to promote some public purpose, but rather to the establishment which such entities, boards or commissions are charged with operating and which use coal for fuel purposes in their
operation. Thus considered, the act would not apply, in my opinion, to the overseer of the poor in supplying a small quantity of coal to an indigent person to be used for fuel in such indigent person's home. It would apply, however, to a board of county commissioners in maintaining a home for the poor of their county. In other words, the act applies to every "institution," as above defined, in the State of Indiana "which is supported in whole or in part by public funds" and for whose operation coal is required to be purchased for fuel purposes. But I do not think the term "institution" can be held to apply to the operations of an overseer of the poor in furnishing coal to indigent persons outside of some public institution as that term is commonly used.

Moreover, I call your attention to the fact that chapter 91 of the Acts of 1931, supra, requires the purchase of Indiana mined coal, in cases where the act is applicable, if the same can be purchased at a cost not exceeding ten per cent greater than the cost of coal mined in any other state; but chapter 141 of the Acts of 1933, now in full force and effect, requires the overseer of the poor in furnishing necessary aid to the poor of his township to procure the same at the lowest price available. Acts of 1933, page 784. The requirement of the purchase of Indiana mined coal at a price which may be ten per cent greater than the "lowest price available" is not consistent with a provision that it can be purchased at the "lowest price available," so that if chapter 91 of the Acts of 1931 could otherwise have been held to apply to coal furnished to indigent persons by an overseer of the poor, it is, to that extent, clearly repealed by chapter 141 of the Acts of 1933.

OIL INSPECTION DEPARTMENT: Oil inspectors, whether required to pay federal check tax on remittances to oil inspection department.

Lytle J. Freehafer, Chief Clerk, Department of Oil Inspection, State House, Indianapolis, Indiana.

Dear Sir:

I have before me your letter submitting the following question:

May 11, 1933.