PUBLIC INSTRUCTION, DEPARTMENT OF: Whether it is legal for public school officials to buy books for indigent parents of children attending parochial schools.

January 14, 1933.

Miss Blanche Merry,
State Attendance Officer,
Indianapolis, Indiana.

Dear Madam:
I have before me your letter submitting the following question:

"Is it legal for public school officials—attendance officers, trustees, or other school officials—to buy books, etc., for indigent parents of children attending parochial schools?"

Section 12 of chapter 132, of the Acts of 1921, being an act entitled "An act concerning the school attendance and the employment of minors, fixing penalties and repealing conflicting laws," is as follows:

"If any parent, guardian or other person having control or charge of any child subject to the provisions of this act, does not have sufficient means to furnish such child with books, school supplies, and clothing necessary to the attendance upon school, then the school corporation wherein such child resides shall furnish temporary aid for such purpose, which aid shall be allowed and repaid to such school corporation by the township overseer of the poor in the manner provided by law for the relief of the poor, upon presentation of an itemized statement of such temporary aid."


The above section appears as section 6459 of Burns Annotated Indiana Statutes of 1926.

A provision similar to the above, has been contained in every compulsory education law, since the enactment of the law on the subject in 1897. Acts of 1897, page 249. Acts of 1901, page 472. Acts of 1913, page 622. Each of the above acts, up to and including the Act of 1913, supra, in terms required the parents, guardians or other persons in control of children within the prescribed ages to attend a public, private or parochial school. Acts of 1897, page 248. Acts of 1901,
page 470. Acts of 1913, page 616. The act of 1921 varied the foregoing provision so as to require the attendance of all children within the prescribed ages in a “public school, or other school taught in the English language which is open to the inspection of local and state attendance and school officers.” Acts of 1921, page 340. It is my understanding that parochial schools qualify under the above provision, and upon that assumption, the question as to the character of the school is of no real importance in answering your particular question.

It is significant that the same session of the legislature which enacted the Compulsory Education Law of 1901, also enacted a comprehensive act governing “poor relief” which in many particulars remains unchanged. Section 11 of that “poor relief” act (Burns Annotated Indiana Statutes of 1926, section 12266) provides as follows:

“Whenever an overseer of the poor shall have given aid, other than burial, medical relief or assistance to children under the compulsory education law, to any poor person or family to the amount of the value of fifteen dollars, it shall be unlawful for him to furnish any further aid to such poor person or family until he shall have presented a statement of the case to the board of county commissioners, with a schedule stating the following facts, viz.: The full names and ages of the persons or families and of each member thereof, their previous occupation, condition of health, fitness for labor, capacity or ability for work, what near relative, if any, they have in the township, and what effort, if any, the overseer has made to secure employment for those of them who are able to labor.” (Our italics.)

It is evident from a consideration of the above provision, and especially that part contained in the italics, together with the provision of the Compulsory Education Act of 1901, authorizing the furnishing of temporary aid in the form of necessary books and clothing in cases where the parents were too poor to furnish them, that it was the intention of the legislature to make the furnishing of such necessary books and clothing a subject for relief requiring a different treatment from “poor relief” generally. As has already been stated, similar provisions are contained in all subsequent compulsory educa-
tion laws, and, in my opinion, the application of the rule requiring such laws, in so far as they deal with the same subject matter, to be construed in pari materia requires me to hold that the proper school authorities of the corporation where such child resides are authorized to furnish temporary aid in the form of books, school supplies and necessary clothing where they are not, guardian or other person having control of it does not have sufficient means to furnish them. The provision of section 12 of the act of 1921, (Burns Annotated Indiana Statutes of 1926, section 6459), would also take precedence over the general poor relief act of 1901, by virtue of its subsequent enactment. Both the 1931 and the 1932 sessions of the general assembly enacted legislation with reference to poor relief generally, which modifies the 1901 act in many particulars, but in my opinion, none of these acts can be held to limit the provisions of section 12 of the Compulsory Education Act of 1921 first above quoted, which remains in full force and effect. Your question is stated in such a manner as to make a categorical answer without reservation impossible. It should be borne in mind, for example, that the only aid which may be supplied under the statute is “books, school supplies, and clothing necessary to the attendance upon school.” Burns Annotated Indiana Statutes of 1926, section 6459. Moreover, the aid to be furnished is to be furnished direct to the child and by the school corporation wherein it resides. Burns Annotated Indiana Statutes of 1926, section 6459.

Subject to the foregoing reservations, however, I think the proper school officials of the school corporation wherein the child resides may render the above described aid in cases where the parent, guardian or other person having control or charge of such child does not have sufficient means to furnish it with books, school supplies and clothing necessary to the attendance upon school.