fawn, wild turkey, or any pheasant of any species or kind, killed or bred in this state,” except for breeding purposes. (My italics.)

Section 2809, supra, makes it unlawful to transport, or receive for transporting, “beyond the limits of this state,” certain game, including wild deer, bucks, does or fawns. (My italics.)

Clearly, neither of the sections last above referred to could be construed as prohibiting the shipping into this state or selling of any bear or other “big game” acquired legally outside of Indiana.

HIGHWAY COMMISSION: Compensation liability of state in labor authorized by state but paid for by county.

August 7, 1933.

Hon. James D. Adams, Chairman,
State Highway Commission
Indianapolis, Indiana.

Dear Sir:

Your letter of August 4, 1933, enclosing a copy of a letter written this office on April 8th, is received. I note that your letter in part is as follows:

“Elkhart county’s relief organization has asked the State Highway Commission to authorize the use of equipment and to furnish supervisors for groups of unemployed men in that county. Elkhart county will pay for the labor, and it is work that can advantageously be done, but is also work which would not be done if the state had to use its funds for it.

“The question we would like to have you settle is this: In the event such an employee is hurt, where would the liability for workmen’s compensation rest?”

You are referred to section 9432 of Burns Revised Statutes of 1926, which reads as follows, to wit:

“Any person, firm or corporation, while engaged in business, trade or commerce within this state, and employing in such business, trade or commerce five or more persons, shall be liable and respond in damages to any person suffering injury while in the employ of such per-
son, firm or corporation, or in case of the death of such employee, then to his or her personal representative, for the benefit of the surviving widow or husband and children of such employee; and if none, then to such employee's parents; and if none, then to the next of kin dependent upon such employee, where such injury or death resulted in whole or in part from the negligence of such employer or his, its or their agents, servants, employees or officers, or by reason of any defect, mismanagement or insufficiency, due to his, its or their carelessness, negligence, fault or omission of duty."

Also, I refer you to section 1 of chapter 243 of the Acts of the General Assembly of 1933, which is as follows:

"(a) 'Employer' shall include the state and any political division, any municipal corporation within the state, any individual, firm, association or corporation or the receiver or trustee of the same, or the legal representatives of a deceased person, using the services of another for pay. If the employer is insured it shall include his insurer so far as applicable."

So you will see that the provisions of the statute apply to state and all other persons or corporations employing labor.

Your question is, whether or not the state would be liable for compensation in case of an injury of an employee under the circumstances set out in your letter. In reply, I would say that it would be entirely a question of fact as to just whom the employee was employed by at the time of the injury. If he was an employee of the county, of course the county would be liable. On the other hand, if he was an employee of the state, the state would be liable.

I should think that you ought to be able to determine that question in advance by a contract between you and the county authorities.