ACCOUNTS, BOARD OF: Schools—abandonment of school town.

August 26, 1933.

Hon. William P. Cosgrove,
State Examiner,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter enclosing the letter of Mr. Hugh D. Morris, president of Cambridge City-Jackson Township School Board, requesting an official opinion in answer to certain questions therein set out.

As a basis for the questions, you advise that in 1922, the schools of Jackson Township were consolidated with the Cambridge City Schools pursuant to sections 6578-6586 of Burns Annotated Indiana Statutes of 1926. You further advise that the town of Dublin, located in the same township at the time of the consolidation, operated its schools as a separate unit and that this condition continued to exist until the year 1933, at which time the Town Board of Dublin passed a resolution abandoning its school and dissolving the school board, to become effective May 1, 1933.

There are two acts pursuant to which an incorporated town may abandon and discontinue its management and control of public schools within such town. One of these acts being the act of 1913, comprising of sections 6563 to 6565 of Burns Annotated Indiana Statutes of 1926, and the other being the act of 1919 comprising of sections 6566 to 6568 of Burns Annotated Indiana Statutes of 1926.

It is not entirely clear which one of the above acts was used in the case under consideration, but the procedure used indicates that an attempt was made to effect the abandonment pursuant to the act of 1913. This act is limited to cases where there is no school indebtedness. The act of 1919 was enacted to cover the case where there is a school indebtedness.

I am advised further that at the time the resolution of the board of trustees of the civil town was passed, said board was under the impression that no school indebtedness existed. It now appears, however, that there is indebtedness for transfers incurred by the School Town of Dublin, which in the past has transferred its high school pupils to Straughn.

Under the conditions above set out, the Wayne county auditor is withholding the tax money that was due the Dublin
School Town in June, upon the theory, that he is without authority to turn the money over to the Dublin School, because the Dublin School was abandoned prior to the time the money was to have been paid.

The following questions are submitted:

"To whom shall this money be paid and upon what authority?"

"Can this money be turned over to the Cambridge City-Jackson Township Schools?"

"If so, what portion of the same can be spent for transfer tuition now due?"

"Dublin has been receiving state aid. To whom will the state aid, which is due December, 1933, be paid?"

"For what purposes may this state aid be used?"

At the very threshold is the question as to whether the action of the board of trustees of the Civil Town of Dublin actually effected a discontinuance and abandonment of the School Town of Dublin. I think it is apparent that the action taken was an attempted compliance with the 1913 act, supra. This act is available only in cases where there is no school indebtedness. Since there is a school indebtedness in the case under consideration, I think, it is doubtful whether a legal abandonment of the School Town of Dublin has been accomplished. On account of this question, the answer to which is not free from doubt, it may be better for the town of Dublin to rescind the action previously taken; accept the check for the June draw; pay the indebtedness and then abandon under the 1913 acts. Upon such abandonment, the territory embraced in the town of Dublin would then become a part of the township and would automatically become a part of the Cambridge City-Jackson Township Schools to be operated as the other school or schools in said joint school corporation.

The advantage of this plan would be that it would relieve from any question as to the legality of the abandonment and should remove any doubt from the mind of the county auditor as to whom the June draw due the Dublin School Town should be paid.

The same result will be accomplished, so far as the finances of the situation are concerned, by accepting the abandonment of the School Town of Dublin as legal, in which case the auditor should turn over the June draw to the township trustee,
who should pay the transfer indebtedness and thereafter, the 
Dublin School should be operated as a part of the Cambridge 
City-Jackson Township Schools.

It is my opinion, however, that under the facts submitted, 
there has not been a legal abandonment of the School Town of 
Dublin and that in order to clear a somewhat complicated 
situation, the procedure above outlined for rescinding the pre-
vious action and after payment of debts, the abandonment of 
the Dublin School Town under the 1913 act should be followed. 
This will clear all complications.

UNEMPLOYMENT RELIEF COMM.: Whether chapter 74, 
Acts of 1931 is valid, since it concerns only a few town-
ships of the state.

August 26, 1933.

William H. Book,
Director, Governor's Commission on Unemployment Relief, 
Indianapolis, Indiana.

Dear Sir:

I have before me your letter of the 25th instant reading as 
follows:

"Some of the township trustees have raised the ques-
tion whether chapter 74 of the Acts of 1931 is valid 
in view of the fact that it seems to be legislation con-
cerning township business affecting only a few of the 
townships of the state.

"May we have an opinion on that question?"

In response to the above question, I call your attention to 
the case of Strange v. Board, 173 Indiana 640, in which a 
classification of townships having less than thirty thousand 
population, as distinguished from townships having more, 
was held constitutional by the Supreme Court of Indiana. In 
that case the Supreme Court said:

"A law which applies generally to a particular class 
of cases is not a local or special law. Whether the 
statute is applicable to a large or a small class, is a 
purely legislative question."

In the case of Shidler v. Martin, 192 Indiana 574, it was 
said by the Supreme Court on page 579: