SECRETARY OF STATE: Co-operative Agricultural Association. Right of employee to hold stock.

November 10, 1938.

Mr. Joseph O. Hoffman,
Chief Corporation Counsel, Department of State,
State House,
Indianapolis, Indiana.

Dear Sir:

I acknowledge receipt of your letter of recent date asking for a construction Section 1, Chapter 284, Acts 1935 (Sec. 15-1606, Burns' Indiana Statutes Annotated 1933, Supplement). Your specific inquiry is whether a person who is an employee of a co-operative agricultural association and devotes all of his time to such employment; for example, the manager of the association or an oil truck driver; is engaged in the production of agricultural products within the meaning of this section, and thus entitled to hold stock in such association.

Section 15-1606, Burns' Indiana Statutes Annotated 1933, Supplement, recites in part as follows:

"(a) Under the terms and conditions prescribed in the by-laws adopted by it, an association may admit as members, or issue common stock to, such individuals and/or political subdivisions of the State of Indiana as meet the requirements of the following paragraph (b) and/or such associations as meet the requirements of the following paragraph (c), and none other.

(b) Such individuals or political subdivisions must be engaged in the production of agricultural products. A lessor or landlord of land used for such production and receiving as rent all or part of such products produced thereon shall be considered to be so engaged. If the association be one principally for the purpose of marketing agricultural products, its individual or political subdivision members or holders of common stock shall be producers of the kind of agricultural products marketed by the association. If the association be one principally for the purchasing of supplies, machinery or equipment for, or the rendering of services to, its members or holders of common stock,
such members or stockholders shall be producers of agricultural products and users or consumers of the kind of supplies, machinery, equipment or services purchased or rendered by the association." * * * (Our italics.)

"Producer" is defined as, "one who produces, brings forth, or generates. One who grows agricultural products."—Webster's New International Dictionary.

"The word 'producer' is not synonymous with the word 'dealer.' It refers to those who obtain the milk from the cows. It does not include persons or corporations who purchase the milk from those who obtain it from the cows. The Dairymen's League Co-operative Association, Inc., was not a producer in this sense."

People v. Shoemaker, 239 N. Y. S. 71, 74.

"The association is a non-stock co-operative corporation. Under its contract with its members it is the sole agent of all their milk and other dairy products, and it is expressly authorized to collect all moneys due from the buyers of said products. The milk that the association receives is all mingled, so that the retailer does not regularly get the milk from any one producer, and the losses, if any, from poor debts, are borne by all.

"The association asks that the court decide that it is a 'producer' within the meaning of the statute. The question has been decided adversely to such claim." (Cases cited.)

People v. Shoemaker, 236 N. Y. S. 70, 73.

An agricultural product has been defined as, "That which is the direct result of husbandry and the cultivation of the soil. The product in its natural unmanufactured condition."

3 C. J. S. 361.

It will thus be seen that the persons referred to in your letter are not engaged in the production of agricultural products within the meaning of the statute. It follows, therefore, that they could not hold stock in the association.