OFFICIAL OPINION NO. 32

June 27, 1956

Mr. Frederick L. Hovde
President
Purdue University
Lafayette, Indiana

Dear Mr. Hovde:

This is in answer to your letter of May 18, 1956, reading as follows:

> "The Agricultural Extension Service of Purdue University has been advised that Cooperative Extension employees holding appointments from the United States Department of Agriculture have been determined by the Bureau of Employees Compensation, United States Department of Labor, to be civil employees of the United States within the meaning of Section 40 of the Federal Employees Compensation Act.
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> "The personnel in question are paid jointly by the United States Department of Agriculture through Purdue University, by the State of Indiana, and by the county. The percentage of pay from each source may vary from county to county. The Federal compensation benefits available under the new ruling will be based on the total salary regardless of the source of funds. However, to the extent that these persons are eligible for benefits under State compensation statutes, the amounts of the Federal payments will be reduced.
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> "We desire your official opinion as to the extent to which any of the persons involved are eligible for compensation benefits under the Indiana Workmen's Compensation Act of 1929, as amended. It has been suggested that some of them are public officers rather than employees.
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> "The persons concerned are the county agricultural extension service agents, the assistant county agricultural agents, the county home demonstration agents, the assistant county home demonstration agents, the 4-H Club agents, and the Purdue University Agricul-

> tural Extension Service staff members. All of them hold appointments from the United States Department of Agriculture. We assume that the secretarial and clerical employees assisting them are covered by the Act."

It appears that the determining factor is whether the employees referred to in your letter are barred from coverage under the Indiana Workmen's Compensation Act by reason of being covered by the Federal Employees' Compensation Act, and by having been determined to be Federal civil employees.

In the case of Posey v. Tennessee Valley Authority, 93 Fed. (2d) 726, it was held that the United States Employees' Compensation Act affords the sole remedy ordinarily available to an injured employee of the United States and that the law of Alabama and Workmen's Compensation Act of that State was not applicable.

This case is in keeping with the trend of the law that when employees are covered by one of the various federal employee compensation acts, that act controls to the exclusion of state acts on the same subject.

In Prader v. Pennsylvania R. R. Co. (1943), 113 Ind. App. 518, 49 N. E. (2d) 387, it was held that when a workman was injured in employment that constituted interstate employment, the rights of the employee were included in the Federal Employer's Liability Act, and that Act was exclusive and the employee was not permitted to bring an action under the Indiana Workmen's Compensation Act.

In view of the law as stated, it is my opinion that any Cooperative Extension employee who is an employee of the United States and is covered by the Federal Employees' Compensation Act would not be eligible for compensation under the Indiana Workmen's Compensation Act.