July 26, 1951.

Lieutenant-Governor,
John A. Watkins,
Commissioner of Agriculture,
Executive Department,
Indianapolis 4, Indiana.

Dear Sir:

I have your request for an official opinion, which reads as follows:

"The 1951 session of the General Assembly enacted a law providing for the return of funds which are now held by the Federal Government in trust for the State of Indiana. These funds are to be used to carry out the provisions of the Bankhead-Jones Farm Tenant Act (7 U. S. C. A. 1001). Section 2 of the 1951 Act (House Enrolled Act 149, Chapter 260) provides as follows:

'The Commissioner is authorized to enter into agreements with the Secretary of Agriculture of the United States pursuant to Section 2(f) of the aforesaid Act of the Congress of the United States, upon such terms and conditions and for such periods of time as may be mutually agreeable, authorizing the Secretary of Agriculture of the United States to accept, administer, expend and use in the State of Indiana all or any part of such trust assets or any other funds of the State of Indiana which may be appropriated for such uses for carrying out the purposes of Titles I and II of the Bankhead-Jones Farm Tenant Act, in accordance with the applicable provisions of Title IV thereof, as now or hereafter amended, and, the Commissioner shall provide in such agreement with the Secretary of Agriculture of the United States that all of such funds shall be administered through the Farmer's Home Administration and that only 3% of the book value of the assets so transferred may be used for administrative purposes, providing further, that said Farmer's Home Administration shall be author-
ized, to do any and all things necessary to effectuate and carry out the purposes of said agreements.'

"My question is directed to the latter part of Section 2, which I have emphasized.

"Section 2(c) of Public Law 499—81st Congress provides in part as follows:

'An application for the return of such properties may be made to the Secretary by the State rural rehabilitation corporation pursuant to appropriate resolution of its board of directors. The application shall contain a covenant, binding upon the applicant when accepted by the Secretary on behalf of the United States, that the applicant will abide by determinations and apportionments of the Secretary provided for in this Act and the payments made by the Secretary pursuant to this Act, that the returned assets and the income therefrom will be used only for such of the rural rehabilitation purposes permissible under the corporation’s charter as may from time to time be agreed upon by the applicant and the Secretary; and that not to exceed 3 per centum of the book value of the corporation’s assets will be expended by the applicant for administrative purposes during any year, without the approval of the Secretary of Agriculture."

"Your official opinion is requested on the following question:

"What percentage of the trust fund now being returned to the State of Indiana by virtue of the Act, may be used by the Farmer’s Home Administration in any one year for administrative purposes in carrying out the provision of the Bankhead-Jones Farm Tenant Act?"

The Indiana Rural Rehabilitation Corporation was incorporated under the laws of the State of Indiana on October 13, 1934, for the purpose of administering a rural rehabilitation program in that state from proceeds of grants, loans, or other assistance from the State of Indiana, and from the United States of America.
Due to the fact that the Corporation was unable to receive further assistance from the above sources, which resulted in curtailment of its activities, the Corporation agreed to bargain, sell, convey, transfer, and assign to the Resettlement Administration all its assets in trust for the purposes as set forth in an Agreement of Transfer which was accepted October 31, 1936, by the Government, causing the creation of the Trusteeship. The Indiana Rural Rehabilitation Corporation was dissolved on November 29, 1939.

Summary financial records of the Trusteeship are currently compiled and maintained by the Area Finance Office, Farmers Home Administration, Indianapolis, Indiana. Related records are maintained by the State Office at Lafayette, Indiana, and County Offices located within the state. The activities of the Trusteeship parallel and are integrated with the operations of the Administration, and procedures promulgated in IHA and Finance Instructions of this Administration apply to the administration of the Trusteeship to the extent that they are pertinent.

The Trusteeship is subject to the Rural Rehabilitation Corporation Trust Liquidation Act, Public Law 499, approved by the 81st Congress on May 3, 1950.

It would seem that the question is one solely involving statutory construction. Section 1, Chapter 260, Acts of 1951 reads as follows:

"The Commissioner of Agriculture who will hereafter be referred to as 'Commissioner' is hereby designated as the State official of the State of Indiana to make application to and receive from the Secretary of Agriculture of the United States, or any other proper Federal official, pursuant and subject to the provisions of Public Law 499, 81st Congress, approved May 3, 1950, the trust assets, either funds or property, held by the United States as trustee in behalf of the Indiana Rural Rehabilitation Corporation."

Upon reading Section 1, it is apparent that the 1951 General Assembly enacted Chapter 260 in order to provide the mechanics by which the State of Indiana could comply with the provisions of P. L. 499, 81st Congress. This being the case, if any problem of construction arises, the congressional
enactment, which the General Assembly had in mind when enacting Chapter 260, must be looked to as an aid in construction. The pertinent rule of construction is stated in Sutherland Statutory Construction, and reads as follows:

"State and federal statutes may be in pari materia, and if so, should be construed together, for it may be presumed that the legislature had in mind existing federal statutes relating to the same subject matter when enacting the statute being construed since the people of its state are subject thereto. But if there is a conflict, the federal statute must prevail, regardless of the time of its passage." 2 Sutherland Statutory Construction (3rd. La.) 546.

The author cites in support of this, Article 6, Clause 2 of the U. S. Constitution and a case decided by The U. S. Supreme Court in which the Court by Brewer, J., said:

"When a state statute and a Federal statute operate upon the same subject matter, and prescribe different rules concerning it, and the federal statute is one within the competency of Congress to enact, the state statute must give way."


With this rule of construction and the Supreme Court's interpretation in mind, it would seem that both the Federal and Indiana Statutes must be construed in pari materia. The Federal Act is very explicit in providing that no more than 3% of the book value of the assets of the Trust Funds which are being returned to Indiana may be used for administrative purposes during any one year. And although Chapter 260, of the Acts of 1941 is not completely silent on the question of the amount to be expended for administrative purposes, still the latter act fails to express any definite time limitation within which this 3% may be expended.

It is therefore my opinion that the Farmers Home Administration in issuing these trust funds to carry out the provisions of Titles 1 and 2 of the Bankhead-Jones Farm Tenant Act (U. S. C. A. Title & Sec. 1001 to 1013) may use
an amount not to exceed 3% of the total book value of the assets of the said trust funds in any one year for administrative purposes.

OFFICIAL OPINION NO. 63

July 26, 1951.

Mr. L. A. Cortner, Superintendent,
Indiana Soldiers’ and Sailors’ Children’s Home,
Knightstown, Indiana.

Dear Sir:

I have your request for an official opinion in which you ask several questions. One of those questions is whether Chapter 253 of the Acts of 1951 supersedes Chapter 118 of the Acts of 1947 as to the maintenance of children in your institution.

Chapter 118 of the Acts of 1947 amends Section 10 of Chapter 182 of the Acts of 1933 and provides in part as follows:

“If, at any time, upon proper investigation by the board of trustees, it shall have been ascertained, before or after accepting any child, that the parent, parents, relatives or other authorized person charged by law with the responsibility of supporting and educating any child which is in the care or is to be in the care of such home, has sufficient means or income to properly support and educate such child, or to contribute to the support and education of such child, the superintendent with the approval of the board of trustees may enter into a contract with such person whereby the home shall be reimbursed for the support and education of such child, according to the terms of the contract, in any amount up to one hundred (100) per cent of the average per capita cost to the home of keeping and educating each child therein. * * *” (Our emphasis.)

Chapter 253 of the Acts of 1951 carried an emergency clause and became effective March 5th, 1951, and it provides as to the scope of its coverage as follows: