OFFICIAL OPINION NO. 51
May 20, 1946.

Hon. Clement T. Malan,
State Superintendent of Public Instruction,
State House,
Indianapolis, Indiana.

Dear Doctor Malan:

Your letter of May 2, 1946, received requesting an official opinion on the following questions:

"1. Is the Textbook Commission of the Indiana State Board of Education compelled by statute to adopt textbooks for separately commissioned intermediate schools and junior high schools in addition to those textbooks which are adopted for grades 7, 8, and 9?

"2. Are all 7, 8 and 9th grades required to use textbooks adopted by the Textbook Commission of the Indiana State Board of Education for those grades regardless of the commission the school holds?

"3. If the answer to question 1 is ‘Yes’, may grades 7, 8 and 9 in all commissioned schools use textbooks adopted for separately commissioned intermediate and junior high schools?"

Section 1, Chapter 243, Acts 1945 provides as follows:

"That the State Board of Education, hereinafter referred to as the board, shall make multiple adoptions of textbooks and enter into contracts with publishers of textbooks to furnish them at fixed prices, so that there shall be a multiple list of textbooks for all subject (subjects) in all grades of the public schools in the State of Indiana." (Our emphasis.)

Section 28-3414 Burns' 1933, same being Section 1, Chapter 74, Acts 1919, provides as follows:

"Boards of school trustees, board of school commissioners, or township trustees, having in charge commissioned high schools, may prescribe junior high
school or intermediate school courses of two or three (2 or 3) years in length, and admit thereto pupils that have completed the sixth year of elementary school work. The first two (2) years of such intermediate school course may include instruction in the subjects generally taught in the seventh and eighth grades of the elementary schools, and may include such other studies, including secondary, pre-vocational and industrial subjects, as such boards of school trustees, boards of school commissioners or township trustees may prescribe, and the state board of education approve."

Section 28-3416 Burns' 1933, same being Section 3, Chapter 74, Acts 1919 reads as follows:

"It shall be the duty of the state board of school book commissioners to adopt text-books, to publish suggestive courses of study, and to devise report forms suitable to such junior high schools or intermediate schools."

In ascertaining the legislative intent as to a statute, it is proper to take into consideration other acts in pari materia, whether passed before or after the Act in question.

Sherfey v. City of Brazil (1937), 213 Ind. 493, 497, 498.

1. In answer to your first question it is clear there is no conflict between the 1919 statute and the 1945 statute but each may be given full force and effect when construed in pari materia with each other. It is also clear the Textbook Commission of Indiana is required under the 1945 law to make adoptions of a multiple list of textbooks "for all subjects in all grades of the public schools."

Under the 1919 statute separate types of school courses for the seventh, eighth and ninth grades may be prescribed by the local school authorities, subject to the approval of the State Board of Education. When such a special course has been so prescribed and approved it is known as an intermediate school course or junior high school course and may be essentially different in the subjects prescribed from those taught
in the regular elementary or high school course. Since the 1919 statute requires the Textbook Commission to adopt textbooks for such an intermediate or junior high school course, such function must now be performed by the Textbook Commission of the Indiana State Board of Education under the 1945 law.

In answer to your first question I am therefore of the opinion the Textbook Commission is required to adopt a multiple list of textbooks for each subject taught in such intermediate or junior high schools and that such adoption must be separate and distinct from the textbook regularly adopted for use in the regular elementary or regular high school courses.

2. In answer to your second question, the schools which have not prescribed intermediate or junior high school courses must use the books adopted by said Textbook Commission for regular schools for the seventh, eighth and ninth grades. Schools which have prescribed intermediate school courses or junior high school courses must use the books adopted by the Textbook Commission for those grades of schools. If no textbooks have been adopted for such subjects such intermediate or junior high schools may use any available books for such purpose until a regular adoption has been made by the Textbook Commission of Indiana under the 1945 statute.

3. For the foregoing reasons the third question must be answered in the negative. Grades seven, eight and nine in those schools which have not prescribed, and had approved, a junior high school or intermediate school course must use textbooks adopted by said Textbook Commission for regular courses in the elementary and high schools for those grades and may not use textbooks adopted by said Textbook Commission for intermediate and junior high schools.