

PUBLIC INSTRUCTIONS: Township Trustee, jurisdiction of trustee over schools built by U. S. A. on Government owned land.

May 12, 1943.

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

Dear Dr. Malan:

I am in receipt of your letter dated May 11th, 1943, stating the following facts to-wit:

That the U. S. Government has purchased real estate for school purposes near Charlestown, in Clark County, Indiana, and is erecting a school building thereon.

Your letter further states that the U. S. Government has built 750 houses near the school building, and although your letter does not so state, I assume that all of the houses erected by the U. S. Government are situated upon real estate owned by the U. S. Government.

Your letter further states that many families are living in trailers in that section, while other families are temporarily living in rented rooms in the town of Charlestown, who have children of school age and who attend the school situated upon the U. S. property. Your letter then requests an answer to the following questions:

“(1) Does the township trustee have any authority over the school building that is being built on federal soil if the federal government wants him to assume control?”

“(2) May the parents of these children who are housed in federal buildings compel the township trustee to furnish school facilities for them?”

“(3) May the trustee ask for and receive maintenance and operation funds from the federal government to operate these schools?”

In answering your specific questions I refer you to my opinion to you dated May 4th, 1943, upon the question as to whether or not the State Superintendent of Public Instruction of Indiana, in conjunction with the Auditor of the State

of Indiana, could legally accept and expend federal funds furnished by the U. S. Government through the U. S. Commissioner of Education for the purpose of making a survey of the needs of children of war working mothers in defense areas and in defense industries in the State of Indiana.

In this letter I stated that it was my opinion that any such activities upon the part of either the State Superintendent of Public Instruction or the Auditor of State of Indiana were extra legal and that there was no statutory authority in Indiana authorizing either state official to perform such duties or accept and expend such funds, but that both state officials, if they consented and were willing so to do, could act as agents or trustees of the Federal Government for such purposes, provided the Federal Government was willing to enter into such arrangement.

It is my opinion that the same rule and principle of law applies to the specific questions contained in your letter. It is firmly established that any and all buildings located upon land owned by the U. S. Government are under the exclusive control and jurisdiction of the Federal Government and that the State of Indiana, including township officials, whether acting for and on behalf of the civil or school corporation unit of government, has absolutely no jurisdiction or control over any property which is under the jurisdiction of the U. S. Government, or located in an area over which the U. S. Government has assumed jurisdiction.

Therefore, it is my opinion that under the Indiana statutes the proper answer to each of your questions is in the negative. However, if the township trustee consents and is willing to act as an agent of the U. S. Government in performing any of the duties specified in either of your questions, and the U. S. Government is willing to enter into the necessary arrangements with the township trustee and furnish all necessary funds required to perform such duties, it is my opinion that there is no statute in Indiana which renders it illegal for such arrangements to be made. It must be understood that any such arrangements are extra legal insofar as the township trustee is concerned and any acts performed by him under such arrangements would not be covered by his official bond or constitute any duties prescribed by the Indiana statutes. Furthermore, such township trustee could not

legally use or expend any money or funds derived from taxation in the State of Indiana in the performance or execution of the duties required in either of your questions, any more than such funds could be used for the purpose of providing school facilities or transportation means for school children living outside of the State of Indiana.

In the event such arrangements are entered into between the U. S. Government and township trustee any and all federal funds so handled should and must be kept and handled through a separate and distinct account system and should not be commingled with any state or township funds or money.

STATE BOARD OF TAX COMMISSIONERS: Re-assessment of real estate, procedure for.

TOWNSHIP ASSESSOR: Salary, how fixed.

May 13, 1943.

Hon. Charles H. Bedwell, Chairman,
State Board of Tax Commissioners,
Indianapolis, Indiana.

Dear Mr. Bedwell:

I have before me your request for an official opinion which requires a construction of that part of Section 64-1019 of the December, 1942, Cumulative Pocket Supplement of Burns' Indiana Statutes Annotated having to do with the question as to how the expenses of a reassessment of real estate under the provisions of the above section are to be paid; also a construction of Section 64-1019a of the December, 1942, Cumulative Pocket Supplement of Burns' Indiana Statutes Annotated, 1933. You desire also that I consider the effect, if any, of Chapter 291 of the Acts of 1943 on the provisions above indicated of Sections 64-1019 and 64-1019a, *supra*. As a matter of convenience, I desire to restate certain of your questions so as to refer to the Burns' Statutes Annotated 1933 wherever possible. Your first question, thus modified, is as follows:

"Is it essential to the validity of an order made by the State Board of Tax Commissioners under the pro-