of Education and the State Officials mentioned are willing and desire to enter into such arrangement.

In conclusion it is my opinion that the State Superintendent of Public Instruction may receive Federal funds to be channeled through the Auditor of State’s Office, to pay the expenses of making the proposed survey, provided the Auditor of State and State Superintendent of Public Instruction consent to such arrangements.

INDIANA STATE POLICE: Whether the State Police may seize and impound a motor vehicle found on private property in view of the provisions of House Bill 295 enacted by the 1943 General Assembly.

May 4, 1943.

Mr. Don F. Stiver, Superintendent,
Indiana State Police,
Indianapolis, Indiana.

Dear Mr. Stiver:

I have your letter of the 19th of March in which you request an official opinion concerning the construction of Section 54, Chapter 213, of the Acts of 1925 (47-550, Burns’ 1940 Replacement) and House Bill 295 passed by the 1943 General Assembly, and particularly you request answers to the following questions:

“1. Are the two acts mutually exclusive, or does House Bill No. 295 limit the scope of Sec. 47-550?

“2. May the sheriff authorize the sale, to a junk dealer or automobile wrecker, of any abandoned automobile, regardless of its value, by virtue of House Bill 295?

“3. May the State Police seize and impound a motor vehicle found on private property, by virtue of Sec. 47-550, although the property owner insists on selling the automobile as junk under authority of House Bill 295?”

Briefly summarized, the 1925 Act provides that a sheriff, state police officer, municipal policeman or representative of
the Secretary of State, who may discover any motor vehicle which has apparently been abandoned or which is in the possession of a person other than a legal owner who can not establish his right to possession, shall take and store the automobile, notify the Secretary of State to institute search for the legal owner, and if the legal owner is not found within thirty days, the motor vehicle shall be advertised and sold.

The 1943 Act provides that anyone upon whose property or in whose possession is found any abandoned motor vehicle, or any person whose title is faulty, lost or destroyed, may, through proper application to the sheriff of the county, sell the abandoned motor vehicle for scrap metal. This latter Act expires by limitation in the Act at the cessation of hostilities or the first day of March, 1945, whichever first occurs.

Cognizant of the fact that, in the absence of an express repeal, repeal by implication is not favored, I am notwithstanding the opinion that there was at least a suspension of the 1925 Act by implication upon the enactment of the 1943 Act. The two Acts differ in almost every respect, including purpose and method of sale, but any attempt to reconcile them as a whole is circumvented by the key fact that both Acts purport to cover the whole field of "abandoned motor vehicles."

The 1925 Act speaks of "apparently abandoned" motor vehicles, and the 1943 Act of "abandoned motor vehicles" upon the property of or in the possession of any person, firm, corporation or unit of government. I am unable to conceive of any motor vehicle which comes within the classification established under the 1925 Act and which also does not fall within the classification of the 1943 Act. The converse of that proposition is equally true.

The very use of the words "any abandoned motor vehicle" in the first paragraph of the 1943 Act exhibits a legislative intent that the Act will be all inclusive. Moreover, there is no limitation upon the place where the abandoned motor vehicle is found, but on the contrary the Act in express terms extends to those found on the property of any person, firm, corporation or unit of government—every conceivable piece of property in the state since "It is firmly settled that the highways belong to, and are provided by the state for the intercommunication and traffic of all inhabitants." Smith v. Board of Commissioners, 173 Ind. 364.
This situation is controlled by Kramer v. Beebe, 186 Ind. 349 (1917), in which the court says:

"At this point we are reminded of two general rules of decision which might be urged quite persuasively as tending to affect our final conclusion in this case. These rules are generally applied where the question is one of repeal by implication, and they are founded upon the doctrine that repeals by implication are not favored. The first is, when there are two acts on the same subject, give effect to both, if possible; the second—'But if the two are repugnant in any of their provisions, the later act, without any repealing clause, operates to the extent of the repugnancy as a repeal of the first; and even where two acts are not in express terms repugnant, yet if the latter act covers the whole subject of the first, and embraces new provisions, plainly showing that it was intended as a substitute for the first act, it will operate as a repeal of that act.'"

Disregarding the question of the expediency of either act, which question is for the legislature alone, I am of the opinion that there is such inconsistency and repugnancy between the two acts that the two cannot stand together. See Crawford, Statutory Construction, Sec. 311. Consequently, my opinion on the first question is that House Bill 295 at least suspends the Act of 1925.

Since there is no provision in the 1943 Act concerning the value of the motor vehicle to be sold for scrap, I see no justification for reading into that Act any limitation as to value.

Since my opinion is that the State Police no longer have authority to seize and impound a motor vehicle by virtue of the Act of 1925, the answer to the third question is necessarily in the negative.

As to whether, under a given fact situation, a car is "abandoned," of course, cannot be determined in this opinion.