It will be observed from the reading of the italicized language contained in Section 49-1614, supra, that all copies of the Acts remaining after distribution as provided for in the various sections may be sold at a reasonable price by the Secretary of State.

Therefore, it is my opinion that it is the duty of the Secretary of State to distribute the copies of the printed Acts of the 1943 General Assembly to the various county clerks of the state as provided for by the above quoted sections of the statutes, and it is the duty of the clerk to distribute the Acts strictly in accordance with the provisions of Section 49-1613, and thereafter any person who may desire a copy of the Acts may obtain the same from the Secretary of State by paying therefor the price fixed and designated by the Secretary of State in the event the copies distributed by the Secretary of State to the various county clerks have been exhausted.

DEPARTMENT OF FINANCIAL INSTITUTIONS: Appraisal of real estate for loan purposes by financial institutions.

November 17, 1943.

Department of Financial Institutions,
State House,
Indianapolis, Indiana.

Gentlemen:

I have your letter of November 3 in which you make inquiry concerning the interpretation of Subsection (c) of Section 9 of Chapter 181 of the Acts of 1935 (18-3109 Burns’ 1940 Replacement). The subsection involved reads as follows:

“No such company shall make or discount any loan or other obligation secured by a mortgage upon real estate:

“* * * * *

“(c) Unless the amount or unpaid principal balance of such mortgage does not exceed sixty (60) per cent of the fair cash value of such real estate as determined by the verified written appraisal of two (2) or more competent and disinterested persons, which,
said appraisement shall be kept on file in the office of the company; and

"* * *

And your inquiry is:

"To what does the word 'disinterested' as contained in the Section above quoted refer? Does this requirement apply to the lending agency, the property being appraised, or both?"

It will be noted that the qualifications of the appraisers as set forth in that statute are stated conjunctively and are two in number: (1) They must be competent and (2) They must be disinterested. I do not believe that those qualifications are necessarily synonymous. One who is thoroughly competent to appraise real estate would not necessarily be disinterested. "Disinterested" as defined in the Second Edition of Webster's New International Dictionary is:

"Not influenced by regard to personal advantage; free of selfish motive; not biased or prejudiced; * * *"

If the one to whom the loan is made—the potential mortgagee—would be influenced in his appraisal by personal advantage or would be biased or prejudiced, it is difficult to see why the potential mortgagee would not also be influenced by personal advantage or biased or prejudiced. From the purely lay point of view, it does not seem that the mortgagee is a disinterested person.

In Insurance Company of North America v. Hegewald, 161 Ind. 631 at page 640, the Indiana Court adopts the definition of the New York Court enunciated in Bradshaw v. Agricultural Insurance Company, 32 N. E. 1055, defining "competent" and "disinterested" as one who is not biased or prejudiced, in other words adopting the ordinary lay definition.

The Indiana statute providing for appraisement in the case of bank loans is Section 18-1307, Burns' 1940 Replacement, which merely requires an appraisement by two competent persons. In neither the appraisement requirements for the Home Owners Loan Corporation (Title 12, Sec. 1463, U. S. C. A.) nor those for Federal farm loans (Title 12, Sec. 656, U. S. C. A.) is the word "disinterested" used as a qualification for the appraisers.
Consequently, in accordance with the well established rule of statutory construction, I am of the opinion, there being no clearly manifest intention to the contrary, the words should be given their plain, ordinary, and usual sense.

Indiana State Board of Medical Registration and Examination v. Pickard, 93 Ind. App. 171 at 179;
Smith, Trustee, v. State, 202 Ind. 185 at 191.

I am not at liberty to mold plain statutory language into my conception of what is wise and practical and as stated in Pittsburgh, Cincinnati, Chicago and St. Louis Railroad Company v. Parker, 191 Ind. 686 at 701, where the Court says:

"Where the meaning of a statute is plain the courts must enforce it as it is written, and may not resort to an artificial construction to conform the law to what has been enacted in other states in wholly different language."

I am therefore of the opinion that the words “competent” and “disinterested” should be interpreted exactly as they are written and that such interpretation eliminates from being appraisers both the mortgagor and an officer, or employee other than one employed for the purpose of making the specific appraisement, of the mortgagor.

INDIANA STATE PRISON: Parole violations, requirements of a declaration of delinquency by Board of Trustees. Necessity of warrant for arrest of alleged parole violator.

November 19, 1943.

Hon. Alfred F. Dowd, Warden,
Indiana State Prison,
Michigan City, Indiana.

Dear Sir:

I have your letter of October 27 in which you mention that local courts have released from the State Prison upon habeas corpus petitions two prisoners who had been returned for