“Sixth. To receive gifts, donations, bequests, and public trusts and to agree to conditions and terms accompanying the same and bind the corporation to carry them out.”

This provision of the laws governing municipal corporations was not repealed by the Depository Act and, I think irrespective of whether the funds involved are “public funds” or not, the above provision should be construed with the Depository Act so as to leave it in full force and effect as applied to gifts, donations, bequests and public trusts.

It is true that the will, copy of which has been furnished me, does not set up a definite procedure, but I think there is sufficient in it as applied to Subdivision Sixth of Section 48-1407, supra, as to authorize the city to receive the gift and to invest it in such a way as to yield an income, which is the only part of the bequest which it can use.

Your first question is answered accordingly.

As to your second question, I do not find anything in the statute which definitely determines who should be the custodian of such a fund. However, it seems to me that the treasurer ordinarily should be the party in whose name the funds should be deposited pending investment—the deposit to be for the use and benefit of the Board charged by the will with the administration of the fund.

STATE BOARD OF ACCOUNTS: Servicemen’s Dependents’ Allowance—Whether clerks may charge for certified copies of records involved in same.

Mr. Otto K. Jensen,
Chief Examiner,
State Board of Accounts,
State House,
Indianapolis, Indiana.

Dear Mr. Jensen:

This is in reply to your request for an opinion upon the following question:

October 20, 1942.
"Since the enactment of the Servicemen's Dependents' Allowance Act there has been a very heavy demand upon the County Clerks of the various counties for certified copies of marriage certificates, divorce decrees, orders for support of children and orders as to the custody of minor children by families of Servicemen seeking to qualify for the benefits to which they are entitled under this Act. In many cases the applicants are without funds with which to pay the charge of the Clerks for furnishing such copies.

"* * * If a way could be found so that these certified copies could be furnished to servicemen or their dependents, without charge, it would be of great help in the war effort, * * *.""

The Servicemen's Dependents' Allowance Act of 1942 to which you refer above is found in the United States Code Congressional Service at p. 583. This is Senate Bill No. 2467 of the 77th Congress. Section 1 of this law reads in part as follows:

"The dependent or dependents of any enlisted man of the fourth, fifth, sixth or seventh grades in the Army of the United States, the United States Navy, the Marine Corps or the Coast Guard, including any and all retired and reserve components of such service, shall be entitled to receive a monthly family allowance for any period during which such enlisted man is in the active military or naval service of the United States * * *.""

The italics above are mine, because it is my purpose to emphasize the fact that the federal law designates the additional allowance to dependents as a "family allowance."

I now direct your attention to Section 59-1001, Burns' Indiana Statutes Annotated, 1933, which reads as follows, to-wit:

"All clerks of circuit courts, county auditors and county recorders shall administer oaths, affix jurats and attestations in writing necessary for the procurement or drawing of any pension, bounty, back pay or
prize money, for any and all soldiers, seamen, their widows or orphans, free of charge."

It should be noted that the clerks of the circuit courts, county auditors and county recorders are required to issue these papers free of charge when the soldier or seaman or their widows or orphans are attempting to collect a pension, bounty, back pay or prize money. Webster's New International Dictionary, Second Edition, defines the word "bounty" as follows, to-wit:

"bounty * * * 4. a reward, premium or subsidy, especially one offered or given by a government; spec.: a. a gift or extra allowance to induce men to enter military or naval service."

Now if the phrase "family allowance" appearing in the first section of the Servicemen's Dependents' Allowance Act is construed with the definition of the word "bounty" in Webster's New International Dictionary and employed by the Indiana legislature in Section 59-1001, Burns' Indiana Statutes Annotated 1933, it is my opinion that the phrase "family allowance" is included within the definition of the word "bounty." In other words, the word "bounty" as used by the Indiana legislature is broad enough to include the phrase "family allowance" as used in the federal act.

In conclusion, therefore, I am of the opinion that all clerks of circuit courts, county auditors and county recorders not only may but are required to administer oaths, affix jurats and attestations in writing necessary for the procurement or drawing of the monthly "family allowance," as provided for in the federal Servicemen's Dependents' Allowance Act of 1942, free of any charge whatever. This service should be given by these county officers to all soldiers and seamen in the military services of the United States upon a proper showing that the papers are necessary for the procurement of the said monthly "family allowance."