either as a label, stamp or wrapper but rather is descriptive only of a method of doing business and that is a method which, in my opinion, cannot legally be exclusively appropriated by any one person, firm or corporation.

Upon the subject of purely descriptive marks or terms, I desire to refer you to two decisions by Federal Courts. Many others could be added. Note first the case of Franklin Knitting Mills, Inc. v. Fashionit Sweater Mills, Inc., where the Court held that the term “Fashionknit” was purely descriptive. (See 297 Fed. Rep. 247.)

Also see the case of: In re Minnesota Valley Canning Company, 49 Fed. Rep. (2d), p. 847. In this case the appellants sought to register the trade-mark “Off the Cob” to be used on canned corn. Objection was made to its registration on the ground that it was purely descriptive. The Court, after stating the familiar rule that a name which is merely descriptive of the ingredients, qualities or characteristics of an article of trade cannot be appropriated as a trade-mark, continued as follows:

“Applying this rule to the case at bar, we have no doubt that the designation ‘Off the Cob,’ as applied to canned corn, is merely descriptive of the qualities or characteristics of the corn. * * *”

In this last case quite a number of cases are referred to as illustrative of the principle involved.

For the reasons herein stated, I am of the opinion that the language “Off the Car” as applied to the situation described in your letter, is not eligible for registration under the Indiana Act.

STATE BOARD OF ACCOUNTS: Co-ordinative administration of poor relief through state and federal agencies.

February 7, 1941.

Honorable E. P. Brennan,
State Examiner,
Division of Accounts and Statistics,
Indianapolis, Indiana.

Dear Sir:

I have your letter of the 31st ultimo wherein you enclose letter from the Regional Director of the Surplus Marketing
Administration propounding the following questions upon which you in turn request my opinion, to-wit:

"I. Are the townships authorized by law to allocate to a state department, agency, or bureau, funds obtained by local levy and to delegate to such state department, agency, or bureau, exclusive jurisdiction over the disbursement of these funds? The proposed financial arrangements to assure immediate cash payment for orange colored food stamps required for periodical distribution thereof to eligible participants in the Stamp Plan within the county, necessitate the creation of a common revolving fund by contributions from the townships. Disbursements from this fund will be made exclusively by a certain designated state department, agency or bureau.

"II. Can the Governor's Commission on Unemployment Relief, or a state organization of similar character, exercise exclusive jurisdiction and control over a revolving fund created by agreement with certain townships and comprising monies obtained through local levy by such townships? It is intended that the exercise of jurisdiction over the revolving fund shall include the right to make such disbursements therefrom as will be required to maintain a sufficient supply of orange colored food stamps to meet current demands, and that such disbursements will be made at the instance of the GCUR, under general authority emanating from its agreement with the townships.

"III. Is there any state department, agency, or bureau, which has legal authority to assume the responsibilities and perform the services required by the Surplus Marketing Administration relative to accurate certifications of parties eligible to participate in the Stamp Plan and issuance of food stamps to such eligible parties?

"IV. Would the issuance of food stamps in lieu of specific food commodities selected by township trustees, constitute legal compliance with your state statute authorizing the delivery of 'simple' food to persons in need?"
The answer to your first question involves a consideration first of the powers and duties conferred and laid upon township trustees in their capacities of overseers of the poor, all as provided in “An Act concerning poor relief and repealing certain laws relating to poor relief.” Approved March 4, 1935, Chapter 116, page 432, Acts of 1935. (Burns Revised Statutes 1933, Title 52, Section 144).

In the opinion of my predecessor rendered to you under date of February 28, 1940, and to which opinion I invite your attention, something of the subject matter herein involved was answered affirmatively. The matters therein decided I reaffirm for the purposes of this opinion.

Your present question goes further and inquires as to the legal authority of the township trustee (as an overseer of the poor) to allocate to a state department, agency or bureau, funds obtained by local levy for the administration of poor relief.

As there is no part or section of the Act above cited which specifically authorized such allocation of funds, such authority, if it exists at all, must be found in the broad general powers conferred by said Act as construed in the light of its declared purposes and intentions.

The specific, pertinent sections covering levies and the disposition of funds have already been cited and discussed in the opinion of my predecessor on this same general subject on February 28, 1940. In addition to these sections, I cite the following as indicating the true intent and purpose of this Act as well as the manner in which the Act contemplates its administration, to-wit:

Section 16 “every overseer of the poor and every person who administers relief from the public funds to the poor, sick and needy, who are not inmates of any public institution, shall keep such records and make such reports, etc.” The above language clearly indicates that others than the overseer of the poor of any particular township may administer poor relief and act for the distribution of funds in the administration thereof.

Section 17 of said Act provides for direct relief by the Board of Commissioners if the trustee fails or refuses to administer relief to the indigent or those entitled to receive the same under this Act.
Section 33 provides for a liberal construction of the Act to the end that "necessary and prompt relief" may be provided to the citizens of this state.

Section 34 expressly authorizes overseers of the poor to cooperate with the state and federal government in the furnishing of poor relief. Section 33 further provides for supervision of poor relief by the Governor's Commission on Unemployment Relief, its successor or any agency created by law to coordinate and supervise poor relief in the State of Indiana.

The Act of 1933, Chapter 136, Section 1, page 759 Acts of 1933, creating the Governor's Commission on Unemployment Relief, specifically provides that "it shall be the duty of the commission with the advice of the Governor to adopt and execute such measures as it may deem necessary, wise or expedient to relieve the unemployed and to coordinate and assist the services and agencies of the state which are engaged in the relief of the unemployed."

Other sections of said Act of 1935 concerning poor relief expressly authorized the overseer of the poor to coordinate his activity with that of charitable agencies and also with the administration of activities of other townships in the state.

From the foregoing it is apparent:

First, that it was not the intent and purpose of the poor relief Act of 1935, above cited, to prevent the township trustee from coordinating his administration thereof with other agencies:

Second, that said Act contemplates and expects that its administration shall be coordinated with state, federal and other poor relief agencies:

Third, that there is a state agency and federal agency, duly created, organized and functioning, legally qualified to coordinate the administration of poor relief in this state:

Fourth, that said Act is to be liberally construed to the end that prompt and necessary relief may be administered to the worthy poor.

There would seem to be no question then but that the township and any state or federal agency may coordinate their functions and activities, make contracts for and assist in the administration of poor relief and this is especially so if thereby such administration is rendered the more prompt, efficient, expedient and economical.

A further question arises, however, from a consideration of Sections 27, 28, 29, 30, 31 and 32 of said Act.
These sections in substance provide for the tax levies for poor relief in each county, the administration of the funds derived therefrom and an accurate record and accounting of the distribution thereof. The duties of the township trustee as overseer of the poor are enumerated and it is self-evident that such funds must be confined to the administration of poor relief in the township for which they were raised.

While these sections must, in the main, be construed as mandatory it remains that an allocation of such funds to a federal or state agency by a contract for the more efficient, prompt and economical relief of the indigent in the particular township, can be made if the accounting practices prescribed by the Act are complied with. There seems to be nothing in the Act to prevent proper accounting for funds allocated to the state or federal agency for the administration of poor relief in a particular township, so long as such funds are used in the administration of relief in that township and the beneficiaries thereof are properly certified, identified and recorded as by law required.

The trustee through such an arrangement would not be relieved of any of his statutory duties in connection with the administration of poor relief in his township. Nor should there be any insurmountable difficulty in fully complying with the accounting practices prescribed by statute. And while there is no direct and specific law authorizing the township trustee to allocate such funds to a federal or state agency, coordinating in the administration of poor relief, it is my opinion, in the light of the construction hereinabove stated, in the interest of economy and efficiency, that he has such power and my answer to your first question is accordingly in the affirmative.

II.

The answer to the second question propounded is somewhat difficult. If by exclusive control by the Governor's Commission on Unemployment Relief of such fund is meant the right or authority to use and distribute such fund free from the directions and certificates of the township trustee, then it is my opinion and my answer to your second question must be in the negative.

As above stated, said Act undoubtedly contemplates correlated, coordinated activities between the township trustees, state and federal agencies and other agencies administering poor relief. There is nothing therein, however, to relieve the
trustee of his statutory duties thereunder by contract made with any of such agencies or the delegation of his powers to other persons. He may exercise his powers and discharge his duties in coordination and cooperation with state and federal agencies but he cannot divest himself thereof through the delegation of such powers and duties to such an agency in the absence of direct statutory authority therefor. In short, no such delegation of power and authority is contemplated by said Act.

III.

It is my opinion that the broad general powers invested in the Governor's Commission on Unemployment Relief, its successor or other similar state agency by the Act of 1933, supra, and references made thereto by the Act of 1935, supra, sufficiently qualify said Commission to assume the responsibilities and perform the services required by the Surplus Marketing Administration so long as and to the extent that the same are assumed and performed in cooperation with township trustees in the administration of relief in their respective townships.

With this limitation and to this extent, my answer to the third question propounded is in the affirmative.

IV

Other than the provisions of Section 9 of said Act, there seems to be no specific requirement covering the dispensation of specific food commodities by the trustee. Section 9 provides in part: "public aid shall be extended only where personal efforts of applicant fail to provide one or more of the following items of relief: Simple food necessary to sustain the person or family in a healthy, physical condition, etc." There is no designation of the kind and quality of foods to be provided except that they must be simple and sufficient for the purpose of sustaining the person and his family in a healthy, physical condition. If, therefore, an arrangement is made through the issuance and sale of stamps whereby qualified and certified applicants obtain relief of a kind and in the amount required by statute, there is no deviation from the Act, the method and medium of dispensation being within the discretion of the trustee. Persons or applicants entitled to relief from the township trustee may pay for provisions furnished with stamps as well as orders executed by the trustee. The relief is furnished, the record is made, the intent of the Act is exe-
cuted. Such a medium of dispensation, if anything, is more consistent with the tenor and spirit of the Act in that it provides a more facile, expeditious and economical system of administration than through orders of the trustee upon certain depots or stores for certain amounts of food to the applicant. All purposes of the Act are complied with and likewise all accounting requirements can be met.

I can see no objection from anything appearing in said Act or from its general tenor and spirit that would constitute a valid objection to the adoption of the stamp plan. My answer to the fourth question propounded is accordingly in the affirmative.

Insurance company having word “trust” in its name may be licensed in this State, and provisions of Section 63 (a) of Insurance Law and 246 of Financial Institutions Act not in conflict.

February 14, 1941.

Honorable Frank J. Viehmann,
Insurance Commissioner,
The Department of Insurance,
State House,
Indianapolis, Indiana.

Dear Sir:

Your letter of February 7th requests an opinion upon a question stated in your letter as follows:

“In considering the matter of the application of the Mutual Trust Life Insurance Company to be admitted to do an insurance business in Indiana, we respectfully request an official opinion as to whether or not the word “Trust” as used in the title is of such designation or import as to preclude the admission of the company to this state by reason of the provisions of Section 63 of the Indiana Insurance Law, with particular reference to the last clause of sub-section (a) of said Section 63, in other words, whether there is any conflict between the terms of this section and Section 246 of the Financial Institutions Act of 1933, as amended 1935.”

Section 63 (a) of the Indiana Insurance Law of 1935, which provides as to the names that may be used by insurance com-