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-
panies doing business in Indiana, whether of foreign or domestic companies, reads, insofar as relates to your question, that no insurance company shall

“Use as a part of its corporate name the words, 'United States,' 'Federal,' 'Indiana,' 'government,' 'official,' or any word that would imply that the company * * * is subject to supervision of any department other than the department of insurance of the State of Indiana.”

Your problem arises out of the provisions of Section 246 of the Financial Institutions Act of 1933, as amended, Chapter 5, Section 45, Acts of 1935.

This section, as amended, provides in substance that no person, firm or corporation, other than a bank or trust company organized under the laws of this state or of the United States as such, shall

“use the word 'trust' or the word 'bank' as a part or portion of the name or title of such person, firm or corporation or to advertise or represent himself or itself to the public as a bank or trust company or as affording the services or performing the duties which by law a bank or trust company only is entitled to afford and perform.”

There follows, in the same section, detailed provisions authorizing the department and its agents to ferret out violations of this section, including the right of inspection of the books and records of those under suspicion.

You suggest the question as to whether the provisions of these two sections are in conflict, and if so, which of the two would take precedence or control.

A rule of statutory construction is to the effect that repeals or modifications of a statute by implication are not favored and that two apparently conflicting statutes should be construed if possible to give effect to each.

Another rule of construction which is especially applicable in the consideration of your question is the rule to the effect that courts should so construe a statute as to render it valid and constitutional, if such a construction can reasonably be made. This rule has special application here because of the title to the Financial Institutions Act which reads, “An Act Concerning Financial Institutions.” Under such a title one might reasonably expect to find limitations as to names to be used by financial insti-
tutions concerning which the Act professes to deal; one would hardly expect to find in such an act containing such a subject legislation with reference to and limiting the names which other types of corporations could have.

If the language referred to in the Financial Institutions Act should be accorded a construction which looks only to the literal expression and not to the evident purpose to be attained, I think I would be obliged to say that a provision is not embraced in the subject of the title of the Financial Institutions Act, and that the language used would therefore have to be stricken down as in conflict with Section 19 of Article 4 of the Indiana Constitution.

Under the rules already stated, however, it would be a court's duty, and it is my duty here, to give the provision such a construction as would preserve its constitutionality, if that is possible, and I think it is.

That Section 246 of the Financial Institutions Act is enacted under the reserved Police Power of the state, is self-evident. Its undoubted purpose, as amended, was to avert deception of the public—to prevent the public from being misled into believing that a certain corporation or company was engaged in the banking or trust company business, when not in fact having complied with the state or national laws with respect to becoming established as a bank or trust company.

The title-source, under which this section is found, clearly establishes the foregoing as the purpose of the section. The act, under the title "An Act Concerning Financial Institutions," is not intended to operate with respect to corporations or other enterprises generally, but only as to those which assume activities or purport to carry on activities having characteristics of those which are ordinarily conducted by banks and trust companies.

If it be suggested that the legislature, by this section, intended to have it operate against all enterprises generally, irrespective of their nature and wholly in disregard of whether the name used imports that the enterprise is one carrying on the business of a financial institution within the terms of the act, then this would be ascribing to the legislature an attempt to enact a law under an insufficient title, a title which confines itself to financial institutions, and, hence, could not, within constitutional restraint, embrace other corporations or unincorporated companies, which neither by their operations nor by name, tend to transgress the Financial Institutions Act.
By way of illustration, assume there exists a corporation, or a partnership, doing business under the name of Deep Bank Coal Mining Company, which is in the coal mining business and does not in any way do or purport to do any business, or division of business, carried on by financial institutions. To the public, it is obvious from the name it adopts that the concern is engaged in the coal mining business.

Assume another name, We Trust Grocery Company. There would be little likelihood of the public being misled into believing that a grocery company by that name, and because of the name, was in fact doing a bank or trust company business. This would likewise be true of an insurance company operating under the name, the Mutual Trust Life Insurance Company.

Legislative intent, with reference to a statute such as Section 246 of the Financial Institutions Act, which is an exertion of police power and thereby involves restraint on liberty of conduct, must be ascertained by considerations determining: the evil sought to be eradicated or controlled; the means intended to effect control; needed restraints of the means, to avoid results not intended, which in the absence of restraint would produce detrimental results in relation to objects not intended to be affected.

Having these considerations in mind in determining the legislative intent and the substance of Section 246, it seems obvious that there is no conflict between the two sections in question, that one supplements the other, that both were intended, in different laws, to accomplish much the same ends.

It is therefore my opinion that the corporate name, the Mutual Trust Life Insurance Company, does not render the applicant ineligible for domestication under that name.