without contracting for the stock. That is, that neither of the transactions is in any sense dependent upon the other. If that is true, I think there is nothing in the plan which necessarily involves a violation of the section under consideration. The only indication which, I think, definitely points in the other direction is the use of the contemporaneous assignment of the coupons. This should be discontinued and the opinion herein expressed is based, in part, upon the assumption that it will be discontinued.

It is my opinion, therefore, upon the basis of the documents furnished and the representations of the company referred to herein, that there is nothing inherent in the plan which violates section 163, supra, and that the question of whether that section is or is not violated must depend entirely upon how the plan is operated.

FINANCIAL INSTITUTIONS, DEPARTMENT OF: Right of individual fiduciary to invest in certificates of time deposits; leave of court.

April 13, 1939.

Hon. Ross H. Wallace, Director,
Department of Financial Institutions,
State House,
Indianapolis, Indiana.

Dear Mr. Wallace:

We have your letter of April 11, 1939, in which you state:

"We will appreciate the benefit of your official opinion as to whether or not an individual acting in a fiduciary capacity by appointment of court, may invest money received by the individual in such fiduciary capacity in time certificates of deposit, issued by a bank or trust company."

We are of the opinion that it is legal to make such an investment, but we are of the further opinion that before such an investment is made, due to the small amount of interest received on the deposit, the fiduciary should obtain from the court permission to make such investment.