PURDUE UNIVERSITY: Payment of depository interest on funds received from United States.

June 20, 1933.

Dr. Edward C. Elliott,
President of Purdue University,
Lafayette, Indiana.

My dear Dr. Elliott:

Referring again to the subject of the proper disposition of the depository interest on certain funds received from the United States as provided by the second Morrill Act of August 30, 1890 (26 Stat. 417); Nelson Amendment of March 4, 1907 (34 Stat. 1281); Hatch Act of March 2, 1887 (24 Stat. 440); Adams Act of March 16, 1906 (34 Stat. 63); Purnell Act of Feb. 24, 1925 (43 Stat. 970); Smith-Lever Act of May 8, 1914 (38 Stat. 372); and Capper Ketchum Act of May 22, 1928 (45 Stat. 711), I desire to advise as follows:

1. It is my opinion, that the above funds are grants by the United States to the State of Indiana, and that the depository interest thereon belongs to the state and to such extent as is necessary should be diverted to the state sinking fund for public deposits.

2. On the other hand, acting under a ruling of the comptroller general of the United States holding that said funds do not belong to the State of Indiana and that the depository interest should be covered into the United States Treasury. I am advised that demand has been made upon you to pay said interest into the treasury of the United States and that failing therein, your further allotment will be withheld or at least placed in jeopardy.

3. In view of the above controversy, without receding from my position as herein stated, and solely for the purpose of preserving your right to future allotments from jeopardy until the controversy can be authoritatively settled, I think that your proper course is to make settlement for the above interest with the United States as required by the comptroller’s ruling, under protest in writing however, wherein is set out the grounds of said protest.

4. I desire to advise also, that under the comptroller’s ruling, if adhered to, the above funds would not come under the Indiana Public Depository Act and would not be entitled to the protection of the Indiana sinking fund for public
deposits. Pending the settlement of the controversy, therefore, I think you will be obliged to secure protection for these funds in some other manner and I advise that you do so.

PRISON, INDIANA STATE: Proper operation of the “good time” act of the 1933 legislature with regard to unpaid fine and costs.

June 21, 1933.

L. E. Kunkel, Warden,
Indiana State Prison,
Michigan City, Indiana.

Dear Sir:

I have before me your letter of June 13, 1933, in which you state that William Brooks, prisoner No. 15549, was sentenced for one year on a petit larceny charge on July 1, 1932, and was assessed a fine and costs amounting to $119. You attach a certified copy of the commitment of such prisoner from the Gibson Circuit Court, and ask our opinion as to the proper operation of the “good time” act of the 1933 legislature with regard to the unpaid fine and costs.

Section 1 of the act in question, being chapter 164 of the Acts of 1933, reads in part as follows:

“Every inmate who is now or hereafter may be confined in the Indiana state prison, Indiana reformatory, or Indiana woman’s prison, for a determinate term of imprisonment, and who, while an inmate in such institution, shall have no infractions of the rules and regulations of the institution, nor infractions of the laws of the State of Indiana or laws of the United States recorded against him or her, and who performs in a faithful manner the duties assigned to him or her while an inmate, shall be entitled to a diminution of time from his or her sentence as indicated in the following table for the respective years of his or her sentence, including time being served for unpaid fine or costs, and pro rata for any part of a year when the sentence is for more or less than a year.” (Our italics.)

This language of the act is capable of only one construction, and that is, that the days the prisoner would be required to serve to satisfy unpaid fine or costs, should be added to