Chapter 308 of the Acts of the Indiana Legislature of 1935 reads as follows:

"SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF INDIANA, That the Baby Chick Department of the State Poultry Association of Indiana be and the same is hereby designated as the official state agency to cooperate with the United States Department of Agriculture in administering the national poultry improvement plan, to set up and promulgate the necessary rules and regulations; and to supervise and carry out the approved plan."

There is nothing in this Chapter to prevent the Live Stock Sanitary Board from assisting the Baby Chick Department of the State Poultry Association of Indiana to carry on Bacillary white diarrhea disease control work in cooperation with the United States Department of Agriculture.

Your attention is directed to an official opinion dated November 9, 1935, addressed to the State Veterinarian concerning his duties with reference to a similar subject, a copy of which opinion is herewith enclosed.

It is therefore my opinion that there is nothing in the Act to prevent the Live Stock Sanitary Board from assisting the Department in controlling Bacillary disease nor is there any provision in the Act requiring any duties to be performed by the Live Stock Sanitary Board. It is suggested that the latter Board be contacted for the purpose of obtaining cooperation wherever possible in controlling this disease.

ACCOUNTS, STATE BOARD OF: County Auditor, salary of; whether auditor is limited to salary provided in Chapter 21 of Acts of 1933.

March 24, 1936.

Hon. W. P. Cosgrove,
State Examiner,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter in which you inquire first as to whether the county auditor is legally entitled for the year
1934 to draw the compensation provided by Section 26-550 of Burns Indiana Statutes Annotated, 1933, for services as clerk of the county council, the compensation allowed by Section 61-607 of Burns Indiana Statutes Annotated, 1933, for services as secretary of the Finance Board and the compensation provided by Section 64-1201 Burns Indiana Statutes Annotated, 1933, as a member of the Board of Review, in addition to the salary as provided by Chapter 21 of the Acts of 1933.

Section 5 of Chapter 21 of the Acts of 1933 provides as follows:

"The compensation provided in the foregoing section shall be in lieu of all salaries, fees, and per diem now provided by statute for the officials therein designated, their deputies and other assistants in the several counties of the State of Indiana, except as herein otherwise provided. All fees and remuneration of whatsoever kind or character, for official services or involving official authority, now provided by statute or otherwise, shall be charged and collected by such officers and shall be the property of the county and shall be covered into the general fund of the county except as herein otherwise provided; Provided, That where county treasurers are ex officio city treasurers, fees accruing exclusively on city business shall be covered into the general fund of the city, except as herein otherwise provided."

The provision for payment for services as clerk of the county council is a part of the County Reform Act of 1899. The provision for payment for services as secretary of Finance Board is a part of the Public Depository Act of 1907 and the provision for the payment of additional compensation as a member of the Board of Review is a part of Chapter 31 of the Acts of the Special Session of 1920. I think these salary provisions are all so inconsistent with the 1933 Act, Section 5 of which is copied above, as to require the holding that they are impliedly repealed by the 1933 Act. In my opinion, therefore, the payment of these amounts for services during the year 1934 would be illegal.

You further ask as to whether the provisions of Chapter 236 of the Acts of 1935 (Acts of 1935, page 1235) excuse
payments made in good faith under an improper construction of the law applicable to the compensation of the county auditor. I do not think that Chapter 236 supra has that effect. The language of that Act, it is true, is somewhat ambiguous, but when construed in connection with the title of the Act, which I am authorized to do under the rules of statutory construction, the meaning of the Act becomes clear. It intends to relieve from liability where an officer's salary has been increased by some law or order during his term of office contrary to the constitutional provision in that particular, which prior to the decision in the case of In Re Todd was supposed not to be a part of the constitution.

GROSS INCOME TAX AND STORE LICENSE DIVISION:
Taxation—National banks not subject to gross income tax.

March 26, 1936.

Mr. John T. Sexton,
Gross Income Tax Division,
Department of Treasury,
Indianapolis, Indiana.

Dear Sir:

I have before me your communication presenting the following request:

"We are referring to you the case of State Tax Commissioners vs. Baltimore National Bank, 180 Atl. 260. A certified Public Accountant has written us to the effect that this case would give us a basis for taxing gross income of national banks. "May we have your comments?"

National banks are instrumentalities of the government of the United States.


In conformity with the principle that it is not within the power of a state to impose a tax upon an agency or instrumentality of the federal government, the State of Indiana