The answer to that question was:

"The corporation and all persons engaged in handling sales or making appraisals must have a license."

Although a corporation is a separate legal entity it can only act by and through natural persons. A proper construction of Sections 9 and 11, parts of which are set forth above requires that all persons acting for and on behalf of a corporation in real estate transactions must be individually qualified as well as the corporation itself. Thus, before a corporation could be licensed and act as a real estate broker there must be some natural person licensed as a broker to act for the corporation.

Thus, in answer to your first question the two builders could not maintain salesmen's licenses under the broker's license issued to the corporation unless there is some natural person holding a broker's license acting for the corporation.

The answer to your second question is in the affirmative for the reason that as long as a natural person is a licensed broker and is acting for and on behalf of a corporation, the corporation's brokerage license may be maintained.

OFFICIAL OPINION NO. 74

December 12, 1950.

Mr. Otto K. Jensen,
State Examiner,
State Board of Accounts,
State House,
Indianapolis, Indiana.

Dear Mr. Jensen:

I have your request for an official opinion in which you state:

"By the definitions and limitations under Section 1, Chapter 319, Acts 1947, Burns 5-1711, it is believed the only townships presently affected are: under clause (a) New Albany Township, Floyd County which said township lies wholly within a third class city; under
clause (b), Center Township, Delaware County wherein lies Muncie, a second class city, with a population under the 1940 census of 49,270 and in which city there exists a city court; and the only county affected is believed to be LaPorte with a population under the 1940 census of 63,660 and in which is located therein a city of the third class and a city of the fourth class.

"Preliminary 1950 census figures indicate the city of Muncie will be 58,364 and the population of LaPorte County will be 76,717."

With these facts in mind you asked a number of questions primarily concerning the effect of the 1950 decennial census, the first of which is as follows:

"1. Are the definitions and limitations under clauses (a), (b), and (c) of Sec. 1 supra so unreasonable that the act would be considered special legislation and therefore unconstitutional or is the act broad enough to be considered a general law whereby any township or county could be included if they could qualify under the terms of the act?"

Special legislation on a number of subjects is prohibited by the Constitution of the State of Indiana, Article 4, Section 22. The prohibition in this provision is applicable to Chapter 319 of the Acts of 1947, (See Clauses 1, 10, 11 and 14).

Inasmuch as every presumption must be indulged in to sustain the constitutionality of the statutes, and in view of the fact that the classification involved is expressed in general terms, it is my opinion that the definitions and limitations in Burns 5-1711 are not so patently unreasonable as to be unconstitutional.

Rose v. Board of Commissioners of the County of Lake (1935), 209 Ind. 371, 375, 199 N. E. 137;
Crowe v. Board of Commissioners of St. Joseph County (1936), 210 Ind. 404, 409, 3 N. E. (2d) 376;
Wayne Township v. Brown (1933), 205 Ind. 437, 463, 186 N. E. 841;
Your second question is as follows:

"2. What fees, if any, are to be taxed, charged and collected in criminal cases on and after January 1, 1951 by justices of townships coming within the definitions of clauses (a), (b) and (c) of Sec. 1 of said act?"

The only provision in Chapter 319 of the Acts of 1947 concerning the collection of fees is found in Section 3, same being Burns 5-1713, which is as follows:

"Upon the expiration of the terms of the justices of the peace and constables now serving in townships or in counties as defined by section 1 (§ 5-1711) of this act there is hereby established and fixed a docket fee which shall be taxed in each civil case filed before the justice of the peace, in the sum of six dollars ($6.00) which docket fee shall be in full for all costs, fees, service of process, as is now provided by law. Said docket fee shall be collected by the justice of the peace who shall make due accounting thereof and turn the same over to the township trustee, at least every three (3) months in each calendar year and to become a part of the township funds."

This section makes no provisions in regard to the collection of fees in criminal cases. Therefore, these fees would be governed by more general provisions, depending on provisions applicable under classifications contained in different acts, namely: Section 2 of Chapter 308 of the Acts of 1913, same being Burns 5-1701 as modified by any more limited acts which may be applicable.

Your third question is as follows:

"3. If fees are to be collected in criminal cases, will such justices be required to pay over such fees to the
township trustee for the benefit of the township fund in view of the salary limitation as provided by the act?"

Section 1 of Chapter 319 of the Act of 1947 specifically provides that the salary granted therein is in lieu of all fees. Therefore, fees collected in criminal cases will be collected for the benefit of the township.

Your fourth question is as follows:

"4. If the city of Muncie reaches a population in excess of the maximum limitation under clause (b) at the effective date of the 1950 census, under what law will justices of such township operate thereafter and what fees will be required to be taxed in civil and criminal cases?"

Your letter does not state what the population of Center Township of Delaware County will be under the 1950 census, however, it seems probable that Section 1 of Chapter 255 of the Acts of 1949, same being Burns 5-104, which applies to townships containing second class cities of 55,000 to 70,000 population will be applicable. You further ask what fees will be required to be taxed in civil and criminal cases; I find no limited statute on this subject and, therefore, it is my opinion that the general fees provision found in Burns 5-1701 will apply.

Your fifth question is as follows:

"5. If the county of LaPorte reaches a population in excess of the maximum limitation under clause (c) at the effective date of the 1950 census, under what law will justices of townships in said county operate thereafter?

"(a) What compensation will they receive? What and for whose benefits will fees be required to be taxed in civil and criminal cases?"

I find no other statute which classifies townships for purposes concerning justices of the peace by attributes of the county. Therefore, each township in LaPorte County will be governed as to justices of the peace by the statutory classification into which the individual township falls. Thus, the
compensation of the justice and whether fees collected by him are for his benefit or for the benefit of the township will depend upon the classification into which the township falls.

OFFICIAL OPINION NO. 75

December 18, 1950.

Honorable Leland L. Smith,
Secretary of State,
State House,
Indianapolis, Indiana.

Dear Sir:

Your letter of October 27, 1950, has been received, which requests an official opinion concerning a foreign corporation that has been properly admitted to do business in Indiana, withdrawing from doing business in this state.

Said request is stated in two questions, the first reads as follows:

"1. Should a foreign corporation for profit properly admitted to do business in the State of Indiana, have its name removed from the records of foreign corporations on file in the office of Secretary of State by filing only a certified copy of the Articles of Dissolution executed in the state of domicile of the corporation?"

The office of Secretary of State is a constitutional administrative office, provided for by Article 6, Section 1 of the constitution of the state of Indiana and reads as follows:

"There shall be elected, by the voters of the State, a Secretary, an Auditor and a Treasurer of State, who shall, severally, hold their offices for two years. They shall perform such duties as may be enjoined by law; and no person shall be eligible to either said offices, more than four years in any six year period."

The Supreme Court of the State of Indiana in the case of "State ex rel. Bingham vs. Home Brewing Co." 182, Indiana