"Under the above sections" (sections 19 and 21 of article 4) "the Act cannot be held to be an amendment."

But in the present case, unless the Act is an amendment (and it clearly is not) it is nothing, since there is no title which could possibly sustain it as original legislation.

Since the body of the Act in the present case must be regarded as original legislation, and since the title is appropriate for only an amendment to a previous Act, it is apparent that the subject of the act is not expressed in the title as required by section 19 of article 4, of the Indiana Constitution. It is, therefore, in my opinion, invalid.

SECRETARY OF STATE: Securities Commission, authority to promulgate rule requiring all issuers of securities to make deposit of securities for benefit of holders.

March 31, 1939.

Hon. James M. Tucker,
Secretary of State,
Indianapolis, Indiana.

Dear Mr. Tucker:

I have before me your letter to which you have attached a proposed rule to be promulgated, adopted and enforced by the Indiana Securities Commission.

You submit the following question with respect to such proposed rule and request an official opinion in answer thereto, viz.:

"1. Is the proposed rule, attached hereto, within the authority and the powers conferred upon the Securities Commission of the State of Indiana under the provisions of The Indiana Securities Law (Acts 1937, chapter 120, p. 656) ?"

The rule referred to is as follows:

"The Indiana Securities Commission, acting pursuant to authority conferred upon it by the Indiana Securities Law of 1937, particularly section 2 and section 8 thereof, hereby adopts the following rule:

"That all issuers of investment contracts or investment certificates, or annuity contracts, or installment
investment contracts, or installment investment certificates, or installment participation certificates, or installment investment bonds, or securities of like kind, which contemplate that the issuer shall pay or deliver, either absolutely or conditionally, to the purchaser or holder of such contract, certificate, bond, or like security, a sum of money at a future time either with or without interest, in consideration of a payment or payments made or contemplated to be made by such purchaser or holder, shall deposit in trust and maintain with the auditor of state, or with some banking institution or other depository in this or other state approved by the Indiana Securities Commission, for the benefit of the holders of such contracts, a deposit of securities of the class or classes in which life insurance companies are permitted by law in this state to invest their reserve funds, and of the value of not less than ten thousand dollars ($10,000), and at no time less than the amount of such issuer's current contract liability on all such outstanding contracts sold in this state under any order of registration, or order reinstating any rights affecting any registration, hereafter made. The method for determining the value of securities under this rule shall be that provided by the laws of this state for calculating the value of securities deposited for reserves of life insurance companies operating in this state.

"Securities deposited by any issuer may be withdrawn at any time by the issuer at its option whenever other securities of like character and of not less than equal value are deposited with the auditor of state or such other depository having had the approval of the Indiana Securities Commission in substitution therefor; and any issuer may withdraw securities on deposit to the extent of any excess over the aggregate amount of the issuer's said current contract liability on all such outstanding contracts sold in this state, provided that the amount of said deposit shall not be reduced by such withdrawal below ten thousand dollars ($10,000) unless the issuer has ceased to sell the contracts for which the deposit is maintained and no longer has authority to sell the same in this state and all liabili-
ties under said contracts sold in this state have fully been satisfied and terminated.

"The Indiana Securities Commission shall permit by order a reduction of such deposit by withdrawal of the securities as herein provided upon the filing by the issuer of a proper affidavit and showing that the amount of such deposit is in excess of the requirements of this rule. Upon discharge in full of all liabilities on all contracts hereafter sold in this state and for which such deposit is maintained, the issuer shall be entitled to a release and return of securities so deposited. The issuer making such deposit shall be entitled to collect and receive the income payments made on securities deposited, provided, however, that the amounts unpaid on deposited securities including principal and interest shall at no time be less than the amount required to be deposited hereunder.

"The Indiana Securities Commission shall at least annually, and oftener if it deems it proper, appoint a disinterested qualified person or persons or may use employees of said commission to make an examination and appraisement of the securities deposited under this rule to determine if such securities meet the requirements of this rule and the cost of such examination and appraisement shall be borne by the issuer of the contracts being sold or offered for sale in this state.

"Every issuer complying with the provisions of this rule as to the deposit of securities shall annually, within ninety days after the close of the fiscal year of such issuer, file a full and complete statement of its financial condition as of the close of such preceding fiscal year with the Indiana Securities Commission, such statement to be in such form as may be prescribed by the Indiana Securities Commission and such statement shall show the current contract liability of the issuer upon all contracts outstanding sold in this state, and shall contain an itemized list of securities, and the value of each, on deposit with the auditor of state or such other depository having had the approval of the Indiana Securities Commission.

"The requirements of this rule shall be made and
become a part of the orders of the Indiana Securities Commission.

"This rule shall become effective on and after ten days from the date of its adoption.

"Adopted this .... day of March, 1939.

INDIANA SECURITIES COMMISSION

By ....................................."

In my opinion the above rule, if adopted and promulgated, would be valid and enforceable with the following exception, namely:

The Securities Commission has no jurisdiction over annuity contracts which are issued by an insurance company qualified with the Insurance Department of the State. Acts of 1937, page 658. For that reason the term "annuity contracts" wherever it appears in the proposed rule should be changed so as to read "annuity contracts unless issued by an insurance company qualified with the Insurance Department of this State."

When the change is made, in my opinion, the proposed rule is within the power of the Securities Commission to adopt it.

INSURANCE DEPARTMENT: Standard provisions of insurance contracts required by statute, whether mandatory or directory as regards naming of beneficiary.

April 3, 1939.

Hon. George H. Newbauer, Commissioner,

Department of Insurance of Indiana,

State House,

Indianapolis, Indiana.

Honorable Sir:

I have before me your letter of the 29th ult., relating to the construction to be placed upon section 174, Indiana Insurance Law, 1935, covering standard provisions for the various types of insurance policies written by insurance companies licensed to do business in this state and in particular, standard provision No. 11, reading in part as follows:

"A standard provision relative to indemnity payments which may be in either of the two following