INSURANCE COMMISSIONER: Applicable statute govern-
ing publication of financial statements of foreign insur-
ance companies.

July 6, 1933.

Hon. Harry E. McClain,
Commissioner of Insurance,
Indianapolis, Indiana.

Dear Sir:

I have before me your request for an official opinion advis-
ing you as to the applicable statute governing the publication
of financial statements of foreign insurance companies.

In 1903 the general assembly enacted an act providing in
part that "the said auditor of state shall cause a copy of said
statement" (financial statement) so filed to be published twice
in the two leading newspapers of the state having the largest
general circulation therein." Acts of 1903, page 139. (Our
italics.) The italicized word was omitted from the 1919
amendment, hereafter, referred to.

The above act was amended in 1919, Acts of 1919, page
704, but the foregoing quoted provision remained practically
unchanged. As provided by the 1919 amendment, the publica-
tion of the financial statements was required to be made "twice
in the two leading newspapers of the state having the largest

In 1920 a comprehensive general act was passed relating
to the publishing of legal notices, section 6 of which provides
as follows:

"In all cases where notices are required by law to
be published in the public newspaper by or under the
supervision of any state officer, board, commission or
institution of the State of Indiana, said notices are
hereby required to be published in each of two daily
newspapers published in the city of Indianapolis, and
in such other cities as is now required by law, said
notices to be in all cases published in two newspapers
in each city where they are required to be published.
In all cases where the officer, board, commission or
institution making said publication is located outside
of the city of Indianapolis, said notices shall also be
published in newspapers published within the county
where said officer, board, commission or institution maintains its office. The rate charged for all such notices and advertising shall be the same as is set out in section 1 of this act."


In an opinion to the then commissioner of insurance under date of January 24, 1923, former attorney general U. S. Lesh apparently was of the opinion that the 1920 act impliedly repealed the 1919 act above, referred to, Opinions of Attorney General, 1923-1924, page 475, and that, thereafter, the commissioner of insurance should be guided by the 1920 act. This may overstate the holding which is not entirely clear. I think it should be held, however, that the 1920 act modified rather than repealed the 1919 act, so far as the same relates to the publication of the financial statements.

In 1927, the 1903 act which was amended in 1919 was again amended. Acts of 1927, page 744. The provision with reference to the publication of financial statements, however, remained unchanged. The same general assembly at the same session also passed a new general act on the subject of the publication of legal notices. Section 6 of this act is identical with section 6 of the act of 1920 already quoted. In fact the entire act, with some additions and changes, is a substantial re-enactment of the 1920 act which a former attorney general has held repealed the 1919 act. Acts of 1927, page 252.

If the 1920 act repealed by implication the 1919 act, there was nothing to amend in 1927 and the attempted amendment, thereof, in 1927 would be unavailing. Upon that basis, therefore, you should be governed by the general act of 1927 appearing on page 252 et seq. of the reports.

Whatever may be said as to the 1920 act repealing the 1919 act, it is clear that the 1920 act, at least, must be held to modify the 1919 act. Upon that view of the question, practically the same result follows as follows from an implied repeal, so far as the question under consideration is concerned. Under well recognized rules of construction, the 1927 general act which is a substantial re-enactment of the 1920 general act, modifies the 1903 act as amended in 1919 and as again amended in 1927, in the same manner as the 1920 act modified the 1919 act, insofar as publication of financial statements is
concerned, the 1903, the 1919 and the 1927 acts being sub-
stantially identical on that subject.

Lewis' Sutherland Statutory Construction, (2nd ed.) Section 273.

It is my opinion, therefore, that you should be governed by the 1927 general act (Acts of 1927, page 252, et seq.) in-
sofar as the same relates to the publication of financial state-
ments of foreign insurance companies.

CONSERVATION DEPARTMENT: Whether students in naval academy during war period are entitled to free per-
mits to hunt and fish.

July 7, 1933.

Hon. Kenneth M. Kunkel,
Director, Fish & Game Division,
Conservation Department,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter of June 26, 1933, asking my opinion as to "whether or not students in a naval academy during the war period would be entitled to a free permit such as are given to soldiers, sailors and marines who served during any of the four major war periods and who are honorably discharged." I am assuming that you refer to students in the U. S. Naval Academy at Annapolis, and to one of the four war periods mentioned in sections 13690 and 13691 of Burns Annotated Indiana Statutes, Revision of 1926, and I will limit my opinion accordingly.

Section 13690, supra, gives the right to fish without procuring a license to "any honorably discharged soldier, sailor or marine of the United States who shall have served in the Civil War." (My italics.)

Section 13691, supra, provides that soldiers and sailors of the three other wars specifically named "shall have and are hereby given all the rights and privileges now held and enjoyed by soldiers and sailors * * * of the late Civil War."

The statutes authorizing and directing your department to issue free permits to fish or hunt without license to such per-
sons as are exempt by law from obtaining licenses, are based upon, and relate back to, sections 13690 and 13691, supra.