PUBLIC INSTRUCTION, DEPT. OF: County superintendent—salary of—method of fixing.

September 14, 1933.

Hon. Grover Van Duyn,
Assistant Superintendent
Public Instruction,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter submitting the following questions:

(1) A county superintendent filed his budget including a salary of $2,000 which was petitioned for and recommended by the board of trustees. The county commissioners reduced this item to the statutory minimum and so advertised. The county council agreed upon a compromise figure of $1,800. This was supported by four of the seven councilmen. Is this compromise salary of $1,800 established by the council, a legal salary?

(2) Does the county superintendent have any recourse to his original budget?

Chapter 21 of the Acts of 1933, fixes the salaries of certain public officials, including the county superintendent. By section 14 of the act, it is provided that:

"The salaries of the county superintendent as herein stipulated may be increased upon written request of a majority of the township trustees to the county council, who may increase such salary to an amount which in the judgment of the county council may seem proper."


The fixing of the salary of the county superintendent, as provided above, should be considered as entirely separate and distinct from the making of an appropriation or the establishment of a levy. It will be noted that the county commissioners have no duty or authority in increasing the salary of the county superintendent. That is done upon the written request of a majority of the township trustees addressed to the county council, which may increase the salary to an amount which in its judgment is proper. In other words, the increase is made
by the county council. The act above referred to, becomes effective on January 1, 1934.

You do not make it entirely clear as to whether the above procedure was followed, but if there was a written request from a majority of the township trustees acted upon by the county council which fixed the salary at $1,800 per year, that salary would be legal in my opinion. However, if an appropriation of $1,800 was made pursuant to a published budget of a lesser amount, the appropriation would not be valid as to the excess and would require further action. Burns 1929 Supplement to Burns Annotated Indiana Statutes of 1926, section 14239. This, I think, answers your first question.

Your second question is answered in the negative.

INSURANCE COMMISSIONER: Insurance—eligible deposits, whether commissioner may adopt rules governing same under section 3 of chapter 148 of Acts of 1933.

September 14, 1933.

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

Dear Sir:

I have before me your letter submitting the following question:

"Does section 3 of chapter 148 of the Acts of 1933 give to the insurance commissioner the right to adopt such regulations as he may see fit as to securities eligible for deposit?"

The section referred to, insofar as necessary to an answer to your question, is as follows:

"Sec. 3. The insurance commissioner is hereby authorized to adopt and promulgate, from time to time, such rules and regulations as may be deemed necessary for the purpose of establishing safe and sound methods for the transaction of business by life insurance companies and for the purpose of safeguarding the interests of policyholders, creditors and shareholders respecting the withdrawal or payment of funds in times of emergency." (Our italics.)