of the Railroad Commission Act of 1905, which required rail carriers to file with the railroad commission certain annual reports, superseded and by implication repealed section 25 of the Railroad Act in force May 6, 1853 (section 13244 Burns Indiana Annotated Statutes of 1926).

In my opinion, the latter act supersedes and repeals by implication the former. The legislative policy in creating the railroad commission and requiring railroads to file annual reports with that commission most certainly had for its purpose control by the railroad commission of all matters dealing with the rates and services of rail carriers and intended to withdraw from the secretary of state such regulation and control of railroads as are found in the former Railroad Act.

To require the filing of the report with the secretary of state, since the creation of the railroad commission, would be needless duplication and could be of no benefit to either the public or the carriers.

INSURANCE COMMISSIONER: Whether foreign insurance companies are privileged to deposit securities with this department.

March 17, 1933.

John C. Kidd,
Commissioner of Insurance,
Indianapolis, Indiana.

Dear Mr. Kidd:

I have before me your inquiry of March 1, 1933, with reference to the legality of the Illinois Bankers Life Assurance Company, depositing with the insurance department of Indiana certain securities covering the business of that company in this state. I note that you state in your letter of inquiry that the company itself is not averse to making the deposit.

I find under the provisions of section 9150 Burns Indiana Annotated Statutes of 1926, that domestic insurance companies are privileged to deposit securities with your department, but I have been unable to find any statutory authority whereby foreign insurance companies may avail themselves of a similar provision.

Inasmuch as the depositing of the securities would not benefit the policyholders in Indiana, due to the fact that the department would have no jurisdiction over the securities so
deposited, it is my opinion that the securities should not be accepted for deposit by your department.

I might also point out that if they were deposited, they would be held by your department without authority of statute and entirely at the risk of the department and possibly the department would assume a responsibility which might become a personal responsibility in certain instances with reference to the handling and care of any securities that might be so deposited.

SECRETARY OF STATE: Concerning unfair competition through the use of a name so similar as to confuse products of corporations.

March 16, 1933.

Hon. Joseph O. Hoffman,
Chief Corporation Counsel,
Secretary of State,
Indianapolis, Indiana.

Honorable sir:

I have before me your letter submitting the ruling of your department on the name "Berghoff Brothers Brewery, Inc.,” under the provisions of the Indiana Corporation Act of 1929, section 4 (b); it being understood that the name "Berghoff Brewing Corporation” had previously been accepted for filing.

You cite, by reference to the letter of the applicant's attorneys, the decision in Deister Concentrator Company v. Deister Machine Company, 63 Ind. App. 412, and the question is presented, whether or not the case cited should be considered by your department and is pertinent in the matter presently before us.

Please permit me to quote directly from that portion of your letter wherein you discuss this case:

"The case cited in the letter of the applicant's attorneys would seem to have been decided upon grounds rather than in the use of the corporate name. In fact, the whole question in that case seemed to be whether or not the activities of the defendant corporation under its name constituted unfair competition. There was no interpretation of the statute involved such as we have in our Indiana general corporation act of 1929."

Your statement that section 4 (b) of the Indiana General Corporation Act of 1929, was not specifically ruled upon in the