INSURANCE DEPARTMENT: Appointment of Special Deputy Insurance Commissioners. Foreign insurance companies' appointment of Special Deputy as liquidator.

April 12, 1938.

The Hon. George H. Newbauer,  
Commissioner of Insurance,  
State House,  
Indianapolis, Indiana.

Dear Sir:

In your letter of April 9 you say that:

"The Franklin Mutual Insurance Company, an Illinois corporation is now in the hands of the Illinois Insurance Department for rehabilitation. Before being taken over by the Illinois Insurance Department they were licensed to do an insurance business in Indiana, this license of course terminated when they were taken over by the Illinois department.

Charles Dawson, special deputy of the Illinois department has requested that this department appoint a special deputy in Indiana, for the purpose of assisting in the rehabilitation, and also in order that we may be better informed in regard to the steps that are being taken to rehabilitate the company. To our knowledge the Franklin Mutual has no assets in Indiana. Is there any way under the Indiana law then, by which a special deputy might be appointed by this department to assist in the rehabilitation of this company, and if so what purpose would a special deputy serve, and what under your law would be his duties?"

The power to appoint a special deputy insurance commissioner for the purpose of rehabilitation, liquidation and conservation is derived from part A of Section 39 of Chapter 162 of the Acts of 1935. This part provides:

"For the purpose of this article the Commissioner shall have the power to appoint one (1) or more special deputy insurance commissioners, as an agent or agents, and to employ such counsel, clerks and assistants as may be by him deemed necessary, and to give each of such persons such powers to assist him as he may consider wise."
It will be noticed that the power given is "for the purpose of this article." This article is Article II of Part 2 of the Indiana insurance law and the purpose of the article in relation to foreign insurance companies is the conservation of the assets within the state of such foreign insurance company.

You say in the second paragraph of your letter: "To our knowledge the Franklin Mutual has no assets in Indiana." Since the Franklin Mutual Insurance Company is a foreign corporation but has no assets in Indiana, it is my opinion that the commissioner has no authority to appoint a special deputy to assist in the liquidation of such foreign company.

INSURANCE DEPARTMENT: No authority for premium tax on reinsurance premiums. Reinsurance premiums no right to tax.

April 12, 1938.

The Hon. George H. Newbauer,
Commissioner of Insurance,
State House,
Indianapolis, Indiana.

Dear Sir:

In your letter of April 4 to which was attached a United States Supreme Court opinion in the case of Connecticut General Life Insurance Company v. Treasurer—State of California, you say you have been informed that the case holds that the State of California may not collect a tax on a reinsurance premium received by the Connecticut General Life Insurance Company from another insurance company authorized or unauthorized to do an insurance business in California.

You then say that section 235 of the Indiana Insurance Law provides for a tax on premiums collected in Indiana by companies domiciled in other states, which companies do business in Indiana.

Your letter then asks this question:

"Would the decision referred to above have any bearing on the application of our law, and if so would it permit a company to deduct reinsurance premiums