INSURANCE DEPARTMENT: Right of fraternal society operating under Indiana insurance have to invest in bowling alley equipment.

November 4, 1938.

Hon. George Newbauer,
Commissioner of Insurance, State of Indiana,
State House, Room 240,
Indianapolis, Indiana.

Dear Sir:

In your letter of October 27, you set forth a factual statement upon which statement you predicate a question. The facts which you set forth are as follows:

"The Croatian Catholic Union of the United States of America is a fraternal society organized under Indiana law governing fraternal societies, with a home office in Gary, Indiana.

"During the year 1938 the Croatian Catholic Union purchased the old post office building in Gary, Indiana. Since the building is considerably larger than necessary for the activities of the Union, the officers desire to make some improvements in order to increase their return from their investment. They are very seriously considering the purchase of the equipment necessary to install a bowling alley on the first floor."

The question which you ask is as follows:

"Will you please advise whether or not, in your opinion, a fraternal society operating under Indiana Insurance Law has the right to use its funds for the purpose of purchasing equipment necessary for a bowling alley, and running a bowling alley as part of its activities."

Section 189 of chapter 162 of the Acts of 1935 which deals with the investment that may be made by fraternal beneficiary associations provides:

"Every society shall invest its funds only in securities permitted by the laws of this state for the investment of the assets of life insurance companies for reserve deposits and such securities shall be valued according to the methods used in valuing similar securities held
by life insurance companies; Provided, That any foreign society permitted or seeking to do business in this state, which invests its funds in accordance with the laws of the state in which it is incorporated, shall be held to meet the requirements of this Act for the investment of funds.” (Our italics.)

It will be noticed from the italicized portion of the above quoted section of chapter 162, supra, that fraternal beneficiary associations are permitted as investments only those securities in which life insurance companies may invest for reserve deposits.

Section 147 of chapter 162, supra, provides for investments by life insurance companies in order that such securities might be eligible for deposit under section 153 of chapter 162, supra. Generally the investments which are permitted may be grouped about as follows: Bonds of various kinds defined by the statute, equipment trust obligations of certain types, certain common or capital stock earnings and interest charges of predecessor or constituent corporation if there had been a merger consolidation or purchase within seven years preceding the proposed investment, loans upon the pledge of securities, real estate acquired under the provisions of the insurance act (with the limitation upon the determination of the value) certain policies of life insurance and loans thereon. This same Act also makes provisions for the acceptance by a company, in the protection of its interests, securities or property in payment or as security for debts due or to become due.

A reading of the above abstracted investment provisions of the statute discloses no where the right of a fraternal beneficiary association to purchase such bowling alley equipment as you ask about in your question.

This is true also in my opinion even in the light of the provisions of section 80 of chapter 162 which is generally denominated the General Powers Section. Item 4 under part B of the General Powers Section gives the right to corporations doing an insurance business “to acquire, own, hold, lease, mortgage, pledge, convey, or otherwise dispose of property, real and personal, tangible or intangible.” It will be noticed however, that this right as are the others under the General Powers Section is limited by the provisions under part A of this section which says: “Every corporation shall have the
capacity to act which is possessed by natural persons, but shall have the authority to perform such acts only as are necessary convenient or expedient to accomplish the purposes for which it is formed and such as are not repugnant to law."

In view of the limitations quoted immediately heretofore respecting the general powers of insurance corporations and in view of the restrictions on fraternal beneficiary associations to invest it is my opinion that the Croatian Catholic Union of the United States of America, while operating under the Indiana Insurance Law, has not the right to use its funds for the purchase of equipment necessary for a bowling alley nor does it have the right under our law to run such bowling alley as a part of its activities.

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ELECTION COMMISSIONERS, STATE BOARD OF: CCC enrollees right to vote.

November 5, 1938.

State Board of Election Commissioners,
1300 Fletcher Trust Building,
Indianapolis, Indiana.

Dear Sirs:

With your letter to me of October 24, 1938, you submitted an enclosure which presents for an official opinion the question of the right of inhabitants of a certain CCC camp to vote at the coming election in the county and precinct in which the camp is located. The pertinent parts of the enclosure point out that:

"There is a federal recreation park, comprising some three thousand acres, part of this land was acquired by the United States government by exercising the right of eminent domain under federal statutes, more particularly the NRA or National Recovery Act, which authorized the government to acquire property for certain purposes pursuant to federal laws. The United States government filed a suit against one hundred and three plus acres of land, this case is sometimes known as United States v. Dickman, and was tried in the Federal Court in Indianapolis, and resulted in the