Policemen's Pension Act at that time provided that the retired member should receive the sum of 50% per month of such wage as at the time of application was paid to a first-class patrolman. However, the amount to be received by retired firemen is based on the monthly wage received by a fully paid first-class fireman in such city at the time of the payment of such pension.

The court determined in the Klamm case that the particular pension in question had vested and that there were no statutory provisions that would allow the amount to fluctuate when the wages of currently employed policemen fluctuated. However, as has been pointed out, the provisions of the Police- men's Pension Act then in effect were materially different from the provisions of the Firemen's Pension Act now before us. For that reason, the Klamm case has no bearing upon the matter.

Based upon the foregoing authority and reasoning, it is my opinion that any city coming within the purview of Acts of 1905, Ch. 129, Sec. 188, as amended, as found in Burns' (1950 Repl.), Section 48-6507, may grant to a fireman now on pension any longevity advantages of present members of the force as now provided by city salary and appropriation ordinances that may exist at time of payments of such pensions.

OFFICIAL OPINION NO. 20

March 11, 1958

Mr. Edwin Steers, Sr.
Member, State Election Board
108 E. Washington Street
Indianapolis, Indiana

Dear Mr. Steers:

Your letter of February 12, 1958, asks the following question on behalf of the Clerk of the Brown Circuit Court:

"1. Am I allowed to collect the salary as Clerk of the election board and Clerk of the County Canvassing Board as this is not a fee to be collected and turned over to the County, or am I to serve without additional pay set up by the last legislation?"
"2. There are two Boards set up for each election, Election Board and the Canvassers Board. Can each board receive pay for their service or just the election board only? The board members think since there are two different boards that each one is entitled to receive pay, although we have never received two pays and the question has never before been asked."

The clerks of the various circuit courts in the State of Indiana become members of the county election board and members of the county canvassing board by virtue of the following statutes:

Acts of 1945, Ch. 208, Sec. 17, as amended, as found in Burns' (1957 Supp.), Section 29-3102, which reads, in part, as follows:

"Said county election board in each of the several counties of this state shall consist of three [3] members, the clerk of the circuit court, who shall be ex officio a member of the board, and two [2] persons by him appointed. * * *"

Acts of 1945, Ch. 208, Sec. 291, as amended, as found in Burns' (1949 Repl.), Section 29-5208, which, insofar as it is pertinent, reads as follows:

"In each county in the state the county election board shall constitute a county board of canvassers. * * *"

In addition to the above statutes establishing the clerk of the court as a board member in each instance there are two other statutes which prescribe further duties for him in relation to the boards.

In Acts of 1945, Ch. 208, Sec. 16, as found in Burns' (1949 Repl.), Section 29-3101, the clerk of court is appointed secretary of the county election board.

"* * * and the clerk of the circuit court shall serve as secretary of such board." (Our emphasis)

Again in Acts of 1945, Ch. 208, Sec. 292, as found in Burns' (1949 Repl.), Section 29-5209, the same clerk is given additional duties in relation to the canvassing board:
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"* * * and the clerk of the circuit court shall act as clerk of such board." (Our emphasis)

I have been unable to find any statutory authorization for compensation of any kind for the clerk of the circuit court either while serving in the capacity of secretary of the election board or as clerk of the canvassing board. In regard to whether the clerk may receive compensation as an ex officio member of said boards, I refer you to Acts of 1957, Ch. 319, as found in Burns' (1957 Supp.), Sections 49-1053 through 49-1069. This act became effective January 1, 1958. Section 3 of the act as found in Burns' (1957 Supp.), Section 49-1055, reads as follows:

"The annual salaries fixed by this act shall be in full for all services and in lieu of all fees, per diems, penalties, fines, interest, costs, forfeitures, commissions, percentages, allowances, mileage, and any and all other remuneration whatsoever for official services or involving official authority except as herein otherwise provided. Such salary shall be paid in twelve [12] equal monthly instalments. County officers shall be entitled to all fees earned by them prior to the effective date of this act regardless of when paid." (Our emphasis)

The County Officers' Salary Act, as quoted above, excludes any other compensation to the clerk of the circuit court other than as provided therein unless said clerk would come under the exception to the act contained in Section 17, as found in Burns' (1957 Supp.), Section 49-1069, which section provides that provisions of the act shall not operate to decrease the salary and per diem of any county officer in classes 3 to 13 during his present term of office. However, I have been informed by the State Board of Accounts that the salary provision of this act exceeds the salary and per diem which the present Clerk of the Brown Circuit Court received prior to the County Officers' Salary Act.

Therefore, in answer to your first question, it is my opinion that the Clerk of Brown Circuit Court receives no salary or fee when he serves as secretary of the election board, or as clerk of the canvassing board, and it is my further opinion that he may not receive compensation as an ex officio member
of either of such boards under the provisions of the County Officers' Salary Act.

Your second question asks whether or not election board members may receive, in addition to their compensation as members of the election board, compensation for their services as members of the canvassing board. My answer to this question, insofar as it pertains to the Clerk of the Brown Circuit Court, is that the County Officers' Salary Act, Burns' (1957 Supp.), Section 49-1055, supra, prohibits said clerk from receiving compensation as a member of the election board and the canvassing board.

Acts of 1945, Ch. 208, Sec. 24, as found in Burns' (1949 Repl.), Section 29-3109, authorizes payments to election board members in accordance with the classification of the county wherein they serve. In addition they would be entitled to receive compensation for their services as members of the canvassing board in the amount set by the county commissioners.

Acts of 1945, Ch. 208, Sec. 293, as amended, and as found in Burns' (1957 Supp.), Section 29-5210, reads in part as follows:

"* * * The members of any such board shall receive for their services as board of canvassers such amount as may be fixed by the board of county commissioners."

In 1945 O. A. G., page 255, No. 57, the Attorney General answered the same problem as presented by your question number two. The conclusion, at page 256, was to the effect that the board members could receive compensation for their services on the canvassing board as well as on the election board. The conclusion reached in this opinion is still applicable to board members other than the Clerk of the Circuit Court.

Therefore, in answer to your second question, it is my opinion that the County Officers' Salary Act prohibits the Clerk of the Brown Circuit Court from receiving compensation as an ex officio member of the county election board and the county canvassing board. However, the other members of the election board are entitled to receive the salary provided for in Burns' (1949 Repl.), Section 29-3109, supra, and in
addition thereto they can receive such amounts as the county commissioners may prescribe for their services as members of the county canvassing board.

In summary, in answer to your first question, it is my opinion that the Clerk of Brown Circuit Court may receive no compensation for serving as either the secretary of the election board, the clerk of the canvassing board, or as an ex officio member of either of such boards. In answer to your second question, it is my opinion that the members of the county election board, other than the Clerk of the Brown Circuit Court, may receive compensation for serving on the county canvassing board in addition to their compensation as members of the county election board.

OFFICIAL OPINION NO. 21
March 17, 1958

Mr. Albert Kelly, Administrator
Department of Public Welfare
141 South Meridian Street
Indianapolis 14, Indiana

Dear Mr. Kelly:

This is in reply to your request for an Official Opinion, as stated in your letter of February 6, 1958. Your letter reveals the following factual situation:

A question has arisen with regard to a member of a county board of public welfare under the following circumstances. The board of county commissioners awarded a contract for furnishing certain printing supplies to a concern, a member of which firm is a member of the county board of public welfare. It is necessary for the county board of public welfare to purchase printing supplies in accordance with this contract from this firm.

The members of the county board of public welfare receive no remuneration for their services. Further information received shows that the firm in question