Acts of 1957, Ch. 219, is to be paid to co-survivors as well as retired teachers.

3. The additional benefit provided under the Acts of 1957, Ch. 219, is to be added to the benefit of teachers retiring after July 1, 1957.

4. A retired teacher, receiving benefits from the retirement fund, who begins to receive primary social security benefits after the effective date of the Act, is not to have the additional benefit under the Acts of 1957, Ch. 219, deleted from his benefit payments.

OFFICIAL OPINION NO. 23
June 20, 1957

Mr. Howard F. Tudor
Chairman, Indiana Real Estate Commission
145 West Washington Street
Indianapolis, Indiana

Dear Mr. Tudor:

This is in reply to your inquiry for an Official Opinion which reads as follows:

"It has come to the attention of the Indiana Real Estate Commission through informal complaints received by the Commission that certain foreign real estate brokerage corporations, who are not licensed under the Real Estate License Law of the State of Indiana, and who are not admitted as foreign corporations to do business in the State of Indiana, occasionally send real estate salesmen (who also are not licensed in Indiana) into the State of Indiana to take written listings on Indiana real estate owned by Indiana residents.

"Under Section 17 of the Real Estate License Law of the State of Indiana, Acts 1949, Chapter 44, #17, page 129, the remedy of injunction is made available in such situations. This remedy, however, is not practical in this situation, for the reason that service cannot be obtained upon the foreign real estate brokerage corporation which is not admitted to do business in Indiana."
“Acts of 1939, Chapter 60, provides a method of serving process on corporations not admitted to do business in the State of Indiana, where such foreign corporation has been engaging in any transaction or doing any business in this state without being licensed or admitted to do business in this state.

“The Indiana Real Estate Commission respectfully requests from you an official opinion on the question of whether a foreign real estate brokerage corporation which takes an occasional listing from the owners of Indiana real estate, may be considered to be doing business in the State of Indiana, so as to make such foreign corporation available for process within the purview of the Statute last above referred to.”

Acts of 1939, Ch. 60, Sec. 1, as found in Burns’ (1948 Repl.), Section 25-316, provides as follows:

“The engaging in any transaction or the doing of any business in this state by any foreign corporation not licensed nor admitted to do business in this state under any existing act or any act hereafter enacted shall be deemed equivalent to an appointment by such foreign corporation of the secretary of state, or his successor in office, to be the true and lawful attorney and agent of such foreign corporation upon whom may be served all lawful processes, writs, notices, or orders in any action or proceeding against such foreign corporation arising or growing out of, directly or indirectly, any act or thing done by such corporation within the state of Indiana.”

Said Act further specifies the manner in which such service of process shall be made.

Your inquiry is whether process under the foregoing statute may properly be secured against a foreign corporation, not licensed as a real estate broker under the Real Estate License Law of the State of Indiana, being Acts of 1949, Ch. 44, as found in Burns’ (1951 Repl.), Sections 63-2401 to 63-2423 and not admitted to do business in the State of Indiana, which occasionally sends into the State of Indiana salesmen similarly
not licensed, to negotiate real estate listings for the sale of real estate in the State of Indiana.

The answer to this inquiry is dependent upon whether such foreign corporation, by said activity above described, is doing business in the State of Indiana, under the terms of said Acts of 1939, Ch. 60, supra.

The courts as a rule have held that where a foreign corporation enters into a single contract, or engages in some other isolated business act within a particular state, with no intention to repeat the same therein, or to make such state a basis for the conduct of any part of its corporate business, such corporation cannot be said to be doing business within the State of Indiana within the meaning of the usual statutory provisions regulating the transaction of business by foreign corporations.

North Dakota Realty & Investment Co. v. Abel et al. (1927), 85 Ind. App. 563, 155 N. E. 46;

If this rule of law be applicable to the situation under inquiry, it would appear that such process could not be secured against such a foreign corporation by reason of one such isolated transaction. However, the Acts of 1949, Ch. 44, Sec. 9, as found in Burns' (1951 Repl.), Section 63-2409, being Sec. 9 of the Real Estate License Law, provides as follows:

“A single act performed for a commission or compensation of any kind, in the buying, selling, exchanging, leasing or renting of real estate or in negotiating therefor for others shall constitute the person performing any of such acts, a real estate broker or real estate salesman and shall require the license herein prescribed and the same to be renewed as herein prescribed and in no wise revoked or canceled by the commission. Every person acting for himself, every member of a firm, partnership, association or corporation participating or engaged in the real estate brokerage or as a real
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estate salesman therefor shall obtain and keep renewed and wholly unrevoked a license as a real estate broker or real estate salesman as herein required."

Said statute accordingly is directed toward and covers isolated transactions, and the performance thereunder of one such isolated transaction by a nonlicensed broker constitutes a violation of the Act.

Accordingly, it is my opinion that when a foreign real estate brokerage corporation, not licensed to do a real estate brokerage business in the State of Indiana, and not admitted to do business therein, engages as a broker in any isolated real estate transaction involving Indiana real estate, by sending its agent into the State of Indiana in connection therewith, such foreign corporation is amenable to process under the terms of said Acts of 1939, Ch. 60, supra.

OFFICIAL OPINION NO. 24

June 28, 1957

Mr. T. M. Hindman
State Examiner
State Board of Accounts
304 State House
Indianapolis, Indiana

Dear Mr. Hindman:

This is in response to your letter of May 29, 1957, which requests an Official Opinion as follows:

"Under the new County Officials' Salary Law, Chapter 319, Acts of 1957, which will become effective January 1, 1958, there is a provision in Section 17 that if the salary prescribed in that act should operate to decrease the aggregate sum now received by any county official in counties of classes 1 and 2, the official may elect to continue to receive the 'salary, fees and other emoluments as now prescribed by law' during his present term of office. A similar provision is contained in this section, applicable to officials in counties of classes 3 to 13, whereby any official may elect to continue to