credit for two and one-half years of credit service in order to make her credit service the equivalent of thirty years, and she then went on retirement with a status of a teacher having thirty years of service credit. This was a benefit realized by the teacher while on retirement. On the other hand the statute provides, beginning with the 1949 statute, that if a teacher ceases to be on disability and transfers to regular retirement annuity, "or returns to active teaching, the amount of disability benefits received shall reduce the amount of any death benefit that may thereafter be payable to said teacher's estate or designated beneficiary."

By voluntarily becoming a member of the 1949 Teachers' Retirement Fund, said teacher elected to be governed by such provision regarding deductions from any death benefits so payable.

I am therefore of the opinion that the disability pension payments paid to said teacher during the two and one-half years for which she claimed additional service credit are deductible from any death benefits payable to said teacher's estate or designated beneficiary.

OFFICIAL OPINION NO. 65

July 30, 1953.

Mr. R. R. Wickersham, State Examiner,
State Board of Accounts,
304 State House
Indianapolis, Indiana.

Dear Mr. Wickersham:

Your letter of July 23, 1953 has been received and reads as follows:

> "A question has arisen in Henry County regarding the consolidation of Junior and Senior High Schools in two townships in that county.
>
> "Greensboro School Township, in Henry County, Indiana, maintains two schools, one serving the first six elementary grades and one serving all elementary and high school grades. Harrison School Township, in

said county, maintains one school serving all elementary and high school grades. The school townships are co-extensive with the civil townships.

"Petitions, signed by more than fifty legal voters, have been presented to the Trustee and Advisory Board in each of said school townships calling 'for an election in each of said respective school corporations for the consolidation of the Junior High and Senior High Schools of each of such respective school corporations, pursuant to provisions of Chapter 123 of the Acts of 1947, and as amended by Chapter 268 of the Acts of 1949, such consolidation to be made pursuant to and governed by the resolution for such consolidation hereto attached, made a part hereof, and for reference marked Exhibit "A." '

"We request your official opinion on the following questions:

"1. Does the law, pursuant to which the petitions were filed, authorize the consolidation of the 'Junior High and Senior High Schools' of the said school townships into a new school corporation?

"2. Do the said schools have assets which could be acquired or liabilities which could be assumed by a new school corporation?"

Section 1 of the above act, as amended, same being Section 28-5901, Burns' Indiana Statutes Annotated (1953 Supp.) reads as follows:

"The school trustees, of any two (2) or more school corporations, whether towns, cities, townships, joint schools or consolidated schools, and hereinafter referred to as school corporations situated in the same or adjoining counties are hereby authorized and empowered to consolidate the elementary schools or the high schools, or both, of such school corporations or to furnish consolidated school facilities for the children of school ages of such school corporations in the manner and upon the conditions hereinafter prescribed in this act."

Section 7 of said act, as amended, same being Section 28-5907, Burns' Indiana Statutes Annotated (1953 Supp.) reads in part as follows:

> "When any such school town or towns, school city or cities, school township or townships, joint schools or consolidated schools shall have become thus consolidated by resolution, or election, as hereinbefore provided, and the new school board shall have been appointed, and have been duly and legally organized as hereinbefore provided, such school township or townships, school town or towns or such school city or cities, joint schools or consolidated schools shall be deemed to have been abandoned and all their school property, rights, and privileges as well as any indebtedness it may have, shall be deemed to have accrued to and be assumed by the new consolidated school corporation, and the title of such property shall pass to and become vested in the new consolidated school corporation, and all debts of the former school corporations shall be assumed and paid by such new consolidated school corporation, and all the privileges and rights conferred by law upon such school township, school towns, school cities, joint schools or consolidated schools shall be and are granted to such newly consolidated school corporation."

Section 8 of said act, as amended, same being Section 28-5908, Burns' Indiana Statutes Annotated (1953 Supp.) reads in part as follows:

> "* * * The cost of maintaining such consolidated schools shall be borne by said township or townships and said town or towns and said city or cities as a single tax unit. Taxes to meet such cost shall be levied by said consolidated school board at a uniform and equal rate on all the taxable property located within the limits of said consolidated school corporation, and collected in the city or cities, town or towns, township or townships in the same manner as other taxes are levied and collected."

From the information furnished in your request, it is apparent one of these school corporations now maintains a Junior

high school which consists of grades seven to nine inclusive, and the other school corporation maintains a regular high school, grades nine to twelve inclusive. The above statute does not specifically authorize the consolidation of Junior high schools. It only appears to authorize the consolidation of either elementary schools, high schools, or both. A Junior high school, being a combination of both elementary and high school grades, would not unless specifically authorized by the above statute be included in the words "high school." If the legislature had so intended such statute to include Junior high schools it should have, in my opinion, specifically provided for Junior high schools.

Such schools are defined by statute: Elementary schools as the first 8 grades; and High schools as the 4 years work following the 8 years in elementary school [Sec. 28-3413, Burns' Indiana Statutes Annotated (1948 Repl.)]. Junior high schools are defined as a combination of both and include the 7th and 8th grades [Sec. 28-3414, Burns' Indiana Statutes Annotated (1948 Repl.)].

It is further noted that under Section 7 of the above act on such a consolidation, the respective school corporations are deemed abandoned, all their assets and property are merged in the new consolidated school corporation. If only high schools are consolidated and full effect is given to the above language of the statute regarding abandonment of schools, an absurd result would be reached, clearly not intended by the legislature, for in that event you would have a high school corporation represented by the consolidated school, and you would have no school corporation to represent the elementary grades in either of the consolidating school corporations.

Again under Section 8 of the act it is required that a levy of taxes be made by the consolidated school corporation as a single tax unit. This would result in considerable confusion as to whether or not three separate school corporations would thereafter each make tax levies—one for the elementary schools in one township, one for the elementary schools in the other township, and one tax levy for the consolidated schools.

Further difficulties would arise if effect is to be given Section 7 of said statute that all of the assets of the consolidating school corporations are merged and such consolidated school

assumes all of the liabilities of the consolidating school corporations. Giving force and effect to these provisions of the statute would be almost impossible where only the high schools were consolidated. The statute contemplates that all of the assets be merged and all the liabilities assumed. Even if by construction it was assumed the legislature intended only to transfer high school property to the consolidated school, how would you ever be able to compute and segregate high school liabilities from general school liabilities?

Using the information given in your letter as a further example of the absurd result to be reached on consolidation of only high schools, it is to be noted that one school corporation has two school buildings—one serving the first six elementary grades, and one serving all elementary and high school grades; the other school corporation maintains one school serving all elementary and high school grades. Under these circumstances how could the high school property be allocated in the succeeding consolidated school corporation?

It is a cardinal rule of statutory construction that it is a duty of courts to execute laws according to their true intent and meaning, as collected from the whole and every part of the statute taken together, and, when so collected, it must prevail even over literal sense of terms and control strict letter of statute where letter would lead to possible injustice, contradiction or absurdity.

Peoples Trust & Savings Bank v. Hennessey (1939), 106 Ind. App. 257, 153 N. E. 507.

From the foregoing I am of the opinion that said statute is impossible of execution, when considered as a whole, if credence is given to the statute as authorizing a consolidation of only the high schools of the consolidating school corporation. Any effective consolidation would have to include the entire school corporation entering into such consolidation. I am further of the opinion that said statute does not contemplate or authorize the consolidation of Junior high schools. Your first question is therefore answered in the negative.

The answer to your first question obviates any necessity of an answer to your second question. However as there pointed out, under the facts presented in your request, in my opinion

it would be impossible to segregate or determine the assets or liabilities of the above named school corporations which would be received or assumed by the consolidated school, if such consolidation was effected.

OFFICIAL OPINION NO. 66

July 30, 1953.

Hon. Wilbur Young,
Superintendent of Public Instruction,
227 State House,
Indianapolis, Indiana.

Dear Sir:

I am in receipt of your request for an opinion as follows:

> "The Attorney General for the State of Indiana in his Official Opinion No. 40 issued June 1, 1953, ruled that there are two options in the interpretation of Chapter 273 of the Acts of 1953, concerning the charges for transfer tuition. What is referred to in said opinion as Option 1 is that part of the statute in existence prior to the 1953 amendment and consists of rhetorical paragraphs 2, 3 and 4 of the amended statute.
>
> "When school budgets for the 1953 tax year were established, transfer tuition charges to be collected for the depreciation and use of school buildings were included as miscellaneous revenue of the Special School Fund. The aforementioned Official Opinion No. 40 indicates that collected funds are to be placed in a bond fund, sinking fund or cumulative building fund or 'Having no specific fund created * * * I am of the opinion such funds could be paid into any general school fund and used for the operation and maintenance of such school system upon appropriation being duly made.'
>
> "Question 1. If a school corporation elects to use Option 1 of said statute, shall that portion of the transfer tuition charges as prescribed by Chapter 273