is but a legal fiction to the effect that for legal purposes the situs or home of personal property is always at the domicile of its owner. But this maxim may not be a premise or used in reasoning to the determination of the situs of the property for the purpose of taxation. This is exemplified by the holding of the United States Supreme Court that the taxation of tangible personal property in the jurisdiction of the domicile of its owner, when it has an established legal situs in another jurisdiction, offends the Fourteenth Amendment to the United States Constitution. Safe Deposit, etc. Co. v. Virginia (1929), 280 U. S. 83, 92; 50 Sup. Ct. 59, 74 L. Ed. 180, 67 A. L. R. 386."

"Appellee's contention that the property was within the jurisdiction of Indiana subject to taxation even though it gained a business situs in Illinois must be held as not well founded."

Therefore, it appears to be a question of fact as to whether or not the vessels in question have acquired a tax situs in the State of Michigan. If not, then the tax may be imposed in the State of Indiana.

OFFICIAL OPINION NO. 67

October 30, 1950.

Mr. Robert B. Hougham,
Executive Secretary,
Indiana State Teachers' Retirement Fund,
336 State House,
Indianapolis, Indiana.

Dear Sir:

Your letter of September 11, 1950, has been received requesting an Official Opinion on the following question:

"Please give us your opinion as to whether the board may give such service credit retroactively for prior years when disability pension was paid, when they do not come within the period between $27\frac{1}{2}$ and 30 years of service."
You are particularly concerned as to whether or not a teacher who now has 28 years of service credit may now claim service credit for one year (her 17th year) while she was on disability. The following referred to sections of the statute are also referred to in your letter.

Section 28-4511, Burns 1949 Supplement, same being Section 2, Chapter 130 of the Acts of 1949, under clause (k) provides in part as follows:

"* * * Provided further, That both disability benefits under this act and service credit may be granted by the board during the two and one-half (2½) years next preceding the completion of thirty (30) years of service credit * * *"

Clause (m) of said section of the statute also in part provides:

"* * * Provided, however, That any teacher who shall have service credit for twenty-eight years shall be privileged to enjoy the benefits of subsection (k) hereof and to pay the regular annual assessments hereto so as to complete thirty (30) years of service credit. * * *"

"* * * Credit shall be given under this act for all years of service rendered under its provisions, before, as well as after the taking effect of this act. * * *

The last quoted portion of clause (m) would not affect your question as it is one of the older provisions of the statute and this office has previously held by an Official Opinion, same being 1948 O. A. G., page 253, Official Opinion No. 42, that disability retirement benefits could not be paid and leave of absence service credit granted concurrently prior to thirty years of service credit. This, of course, was prior to the 1949 amendment which somewhat modified this rule as set out in the first two quotations from the statute, supra.

You are particularly concerned with whether or not the first reference from clause (m) gives any additional benefit other than that contained in clause (k), above quoted.

Since by its very wording clause (m) only authorizes teachers with twenty-eight years of service credit "to enjoy the benefits of sub-section (k) hereof" that would be the
extent of the effectiveness of that portion of clause (m) of the statute and would not broaden the unambiguous language contained in clause (k) of said section of the statute.

I am therefore of the opinion that under said statute as it now exists service credits for years in which disability benefits were received are limited to the $2\frac{1}{2}$ years next preceding the completion of thirty years of service credit. In other words a person who has twenty-seven and one-half years of service credit and then goes on disability and received disability benefits may by complying with the provisions of the Act request service credits for the last $2\frac{1}{2}$ years necessary to make her thirty years service credits toward retirement. Disability prior to that period of time cannot be counted to retirement.

OFFICIAL OPINION NO. 68
October 30, 1950.

Dr. D. W. Connor,
Secretary, Treasurer,
Indiana State Board of Registration,
and Examination in Optometry,
206 Merchants Bank Building,
Terre Haute, Indiana.

Dear Sir:

Your request of October 18, 1950, has been received and is as follows:

"Will you please furnish to the Indiana State Board of Registration and examination in Optometry an official opinion on the following facts and the question based thereon.

"In 1911 an individual, following application and examination, was issued a certificate to practice optometry in the State of Indiana, said individual thereafter securing license and practicing in the State of Indiana.

"In the year 1928 the said individual was convicted in the U. S. District Court for the Southern District