ings are not specifically enumerated in the statutory definition of a "trial." It is therefore my opinion that the answer to your second question is in the negative. However, I call your attention to the fact that there may be instances where the proceedings resulting in a dismissal of a cause by the court may involve a judicial examination of issues of law or fact or both. In such instances the judge would be entitled to the per diem provided in the statute, not for the entering of a judgment of dismissal, but for such judicial examination of the issues.

OFFICIAL OPINION NO. 47

July 9, 1948.

Mr. Forrest V. Carmichael,
Executive Secretary,
Indiana State Teachers' Retirement Fund,
336 State House,
Indianapolis, Indiana.

Dear Mr. Carmichael:

This will acknowledge your letter of June 12 in which you request an official opinion relating to the question propounded as follows:

"Is a legally qualified teacher who is employed in a charitable, benevolent or correctional institution of the State of Indiana, and who was qualified under the teachers' retirement fund act previous to such employment, eligible to receive annuity or disability benefits from the teachers' retirement fund while in such employment?"

We will first give consideration as to the persons who may be eligible to receive annuities under the provisions of the Teachers' Retirement Act. Sub-section (a) of Section 2 of Chapter 353 of the Acts of 1947, the same being Sub-section (a), Section 28-4511 of Burns' Revised Statutes, provides in part as follows:

"The members and beneficiaries of this fund shall include any legally qualified and regularly employed
teacher, teacher-clerk, supervising principal, principal, supervisor, superintendent of schools, person in charge of any special department of instruction or training, or any other teacher or instructor legally qualified and regularly employed as such in any of the public schools of this state or any persons employed by the trustee or board of trustees of a public school corporation who were qualified under this act previous to their election or appointment; or in any public state normal school of the state, supported wholly by public money, and devoted to the preparation of teachers; or the legally qualified and regularly employed teachers, principals, superintendent and others named above in any other public state educational institution of this state supported wholly by public money and whose teachers devote their entire time to teaching; and the legally qualified and regularly employed teachers in state benevolent, charitable, and correctional institutions whose teachers devote their entire time to teaching; * * *.” (Our emphasis.)

Since under the Act a teacher is defined as a person legally qualified and regularly employed in any of the public schools of the state and those who devote their entire time to teaching in state benevolent, charitable, and correctional institutions of the state, it is evident that such qualified persons are eligible to receive such benefits as may be further provided by the Act.

Sub-section (j) of Section 2 of Chapter 353 of the Acts of 1947, Sub-section (j) Section 28-4511, Burns’ Revised Statutes, provides as follows:

“Any person who shall have taught twenty (20) years or more in the public schools and who ceases to be in the employ of the public schools of the state for any cause, may in lieu of any other benefit be entitled to an annuity payable as above of such an amount as the then present value of the annuity which would otherwise have ultimately been available computed on the actuarial basis provided for, will purchase at such teacher’s age of retirement, based upon actuarial tables adopted by the board of trustees.” (Our emphasis.)
The term the *Public Schools of the State* has a well understood meaning. It is evident that the intention is to make eligible for the annuity provided by the Act all teachers who have taught twenty years or more in the public schools or full time in a state benevolent, charitable and correctional institution and have ceased to be employed as teachers by the proper officers charged with the duty of administering the state's school system or the educational program of such state benevolent, charitable and correctional institutions.

It is therefore my opinion that the employment of retired teachers by a state benevolent, charitable and correctional institution in capacities other than full time teaching would not make them ineligible for the annuity if they are otherwise eligible.

As to retirement for disability, Sub-section (k) of Section 2 of Chapter 353 of the Acts of 1947, Sub-section (k) Section 28-4511 of Burns' Revised Statutes, provides in part as follows:

"Any teacher, while actually teaching in the public schools of the state, may be temporarily or permanently retired for disability on a benefit in accordance with this act after he shall have served as such teacher according to the provisions of this act for a period of ten (10) years or more; and, provided, further, That when a teacher is retired for any disability, such retirement shall continue only until such disability is relieved or removed, and no disability benefit shall be paid to such teacher after medical examination made on demand of the board of trustees of the Indiana state teachers' retirement fund any by a physician approved by the said board and made at the expense of said teacher shall establish to the satisfaction of the board that such disability is removed. * * *

The Act provides that any active teacher may be retired for disability on a benefit by the board of trustees of the Teachers' Retirement Fund if he has served as a teacher for ten years or more and such board may cause such retired teacher to be examined at any time to determine whether the disability continues to exist.

It is my opinion that the legally qualified and regularly employed teachers in state benevolent, charitable and correc-
tional institutions who devote their entire time to teaching in such institutions are eligible to receive disability benefits from the Teachers' Retirement Fund upon sufficient proof. Conversely, since disability retirement is available only to active teachers, one employed in a state charitable, benevolent or penal institution other than a full time teaching capacity is ineligible for disability benefits.

OFFICIAL OPINION NO. 48

July 13, 1948.

Colonel Robert Rossow,
Superintendent, Indiana State Police,
Stout Field,
Indianapolis, Indiana.

Dear Sir:

I have your inquiry of June 18, 1948, in which you request my opinion concerning the following factual situation:

"* * * Many employees of the Quartermaster Depot at Jeffersonville maintain their home residence in Louisville; however, five days of each week they reside in Indiana where they have sleeping quarters. Is it necessary that they have Indiana license plates and Indiana drivers' license?"

Let us first consider the question of license plates or motor vehicle registration. There is a blanket motor vehicle registration requirement contained in Section 24, Chapter 304, p. 1308 of the Acts of 1945 (Sec. 47-2601, Burns' 1947 Pocket Supp.) that, except as otherwise provided before any motor vehicle shall be operated on a public highway, owners shall register the same. Presumably, the requirement covers every motor vehicle irrespective of the residence or domicile of the owner.

Section 43 of the same act, which is Section 47-2620, Burns' 1947 Pocket Supp., contains provisions which permit non-resident owners, who are registered in their own state, to operate motor vehicles on Indiana highways on a reciprocal basis. Sub-section (b) of Section 47-2620 of Burns, is as follows: