OFFICIAL OPINION NO. 1
January 3, 1946.

Hon. Forrest V. Carmichael, Executive Secretary,
Indiana State Teachers' Retirement Fund Board,
Room 334, State House,
Indianapolis, Indiana.

Dear Sir:

Your letter has been received in which you request an official opinion on the following question:

"Can service credit be allowed in the Indiana State Teachers' Retirement Fund, to public school librarians, public school nurses and public school attendance officers, for service rendered prior to the date when each was required, by law, to hold a license and prior to the date when each held a license?"

Chapter 328 of the Acts of 1945, Section 3, in part provides as follows:

"* * * The members of the fund shall be as follows.

"(1) All teachers as herein defined, who are employed to teach in the public schools of the state and whose services in such schools began after June 30, 1921, or whose services shall begin hereafter.

"(2) Those teachers who entered service in such schools of the state prior to July 1, 1921, and who, before December 31, 1942, were members of the fund under the provisions of Chapter 182 of the Acts of 1915 or acts amendatory of said chapter.

"(3) Teachers who entered service in the schools of the state prior to July 1, 1921, and who failed to elect membership in the state teachers' retirement fund prior to December 31, 1942, may elect to receive membership in such fund at any time before December
31, 1946, by the payment of all arrearages for prior
service claimed. * * *”

“* * *”

“(h) Teachers coming under the provisions of this
act except those teachers provided for in paragraph
(3) of subdivision (a) of this section shall be re-
quired to pay as arrearages an amount equal to the
amount which would have accumulated from their con-
tributions with four per cent (4%) compound interest
had they been members under this act for the number
of years which they claim for prior service, provided
that a teacher may waive his right to former service
and pay only current rates from the time when the
membership begins and receive no credit for prior
service. * * *”

From the foregoing statutes it is clear before a person is
eligible for membership in the Indiana State Teachers' Re-
tirement Fund he must be classified as a “teacher”. He is
also required to be so classified under the 1939 Teachers'
Retirement Act.

As to when a person attains the status of a “teacher” is
clearly pointed out in 1945 Ind. O.A.G., number 91, where
both the 1945 and the 1943 laws are reviewed. Under Chap-
ter 231 of the Acts of 1945 it is shown said law defines the
term “teacher” as one working in the public schools who is
required to obtain a license from the Licensing Board of the
State Department of Education as a prerequisite to the per-
formance of such work. Said opinion discloses under the
1943 law, being Section 28-4319 Burns' 1943 Supplement,
being Section 1, Chapter 112, Acts 1943, the same included
all persons working in the public schools who are required
to secure a license from the State as a prerequisite to the
performance of their duties. However, the 1943 law was
construed to require such person to do some teaching.

Also see 1943 Indiana O.A.G., 364.

It is therefore clear under either of the above classifica-
tions the licensure of such person was a condition precedent
to such person's attaining the status of a “teacher.”

I am therefore of the opinion public school librarians,
public school nurses or public school attendance officers can-
not claim service credit in the Indiana State Teachers' Retirement Fund for services rendered prior to the date when they were required by law to hold a license for the performance of such work.

OFFICIAL OPINION NO. 2

January 11, 1946.

Hon. C. E. Ruston, State Examiner,
State Board of Accounts,
Room 304, State House,
Indianapolis 4, Indiana.

Dear Mr. Ruston:

I have your letter of recent date in which you request an official opinion on the following facts:

On October 5, 1942 there was a burglary of approximately $207.50 from the office of a branch manager of the Bureau of Registration, Licensing and Regulation of Motor Vehicles. It appeared that the money was in a cash drawer which was not locked. The burglary occurred while the office was locked and the employees were out to lunch. Entry to the office was obtained by using an instrument to force the lock on the office door. The money taken was one week's accumulation of automobile license fees.

It further appeared that the branch manager was appointed by the Secretary of State and at the time of his appointment entered into a written contract, a copy of which you enclosed, wherein it is provided that the branch manager shall be personally responsible for all fees collected by him for and on behalf of the "Department" and is required to remit and deliver the same to the "Department" at 109 State Capitol Building, Indianapolis, Indiana not later than 24 hours after the close of the business day in which such fees shall have been collected. However, it is further provided that these receipts may be mailed and also that such requirement may be dispensed with by the "Department" upon such instructions as may be given from time to time.

It further appeared that this latter requirement was modified and required that remittances be made once a week. It