amount payable from the Fund in case of the death of a teacher while drawing disability benefits, no further penalty could be exacted.

In answer to each of your questions I am therefore of the opinion a teacher who becomes a member of the Retirement Fund under the 1939 Act and does not elect to become a member of the Fund under the 1945 Act, as well as a teacher who originally becomes a member of the Fund under the 1945 Act, is not required to pay full arrearages prior to retirement on disability.

OFFICIAL OPINION NO. 48

May 17, 1946.

Hon. A. V. Burch,
Auditor of State,
State House,
Indianapolis, Indiana.

Dear Mr. Burch:

I have your letter of May 3, 1946 in which you request an official opinion upon the following question:

“The State Fair Board has filed in our office for payment a voucher in the amount of $246,851.19. This amount represents the balance in an account titled ‘Indiana State Board of Agriculture’, less $7,000.00 which was held in this fund to pay interest due July 15, 1946. This fund was created by a tax levy of 3½ mills on each $100 of taxable property beginning with the year 1923 payable 1924 and extending annually thereafter. (See Sec. 15-213).

"* * *

“The portions of this law (Sec. 15-213) setting out that the Fair Board shall at the time of making its annual report to be filed with the Auditor of State, state the amount on hand, which will not be used, and this amount shall thereupon be paid into the State General Fund, has not been complied with. There have been no reports filed in our office up to the time of the
filing of the voucher at which time there were filed reports covering the years of 1942, 1943, 1944 and 1945. There has accumulated in this fund over a period of years, $253,851.19.

"In the absence of the filing of these reports in our office, do we have the authority to issue a state warrant in payment of the voucher which is filed with us payable to the Indiana Board of Agriculture in the amount of $246,851.19?"

Section 15-213 of Burns’ 1933 provides as follows:

"In order to aid the Indiana board of agriculture in meeting the obligations incident to its activities there is hereby levied an annual tax of three and one-half mills on each one hundred dollars ($100) upon all of the taxable property in the state, beginning with the year 1923, to be payable in 1924, and extending annually thereafter. The funds created by said levy shall be turned over to said board on warrant drawn by the auditor of state on the state treasurer from time to time as demanded by said board: Provided, however, That should said board deem it unnecessary to use any or all of the funds thus provided, it shall at the time of making its annual report to be filed with the auditor of state, state the amount on hand collected from said levy and the amount which will not be needed, and said amount shall thereupon be paid into the general fund of the treasurer of the state to be held and disposed of as other funds not specifically appropriated by law."

The above statute requires the Auditor of State to turn over to the board from time to time the amount which it demands from this fund. The only exception provided in the statute is that if the board shall deem it unnecessary to use any or all of the funds provided, it shall so state in its annual report the amount which it does not need, in which case said amount shall be paid in to the general fund. From your letter it does not appear that the board has declared in any of its reports that it does not need any of such funds.
Accordingly, it is my opinion that you have the authority to issue a state warrant in payment of the voucher which is filed with you to the Indiana Board of Agriculture in the amount of $246,851.19.

OFFICIAL OPINION NO. 49
May 17, 1946.

Mr. Harold Shulke, Superintendent,
Division of Buildings and Property,
148 State Capitol Building,
Indianapolis, Indiana.

Dear Mr. Shulke:

I have your letter of May 9, 1946 in which you request an official opinion on the following statement of facts:

On February 23, 1934 the Indianapolis Power and Light Company installed meter No. 29921 which is an alternating current meter registering a portion of the electrical energy supplied to the State House. On April 24, 1946, during a routine test, the company discovered that at the time said meter was installed it was incorrectly stamped for a register ratio by the manufacturer. It was incorrectly stamped with a ratio of 1200, when in fact it should have been stamped with a ratio of 1800. By virtue of this error this meter has failed to register the proper amount of current used and has resulted in an undercharge by the company.

The company proposed to adjust the billing in accordance with the practice and the rules and standards of service as prescribed by the Public Service Commission, and on this basis a proration covering the six month period ending in April 1946 has been calculated. The total unbilled energy during this period amounts to 43,999 KWH or an additional charge of $675.92. Allowing for the April bill which has been corrected to include a proration for that amount, the adjustment still to be considered is the sum of $565.30 covering the five month period prior to April 1946.