such accumulative days in taking new employment with a new school corporation.

It is therefore clear that a teacher employed part time by several school corporations would retain the credit for any sick leave accumulated against those school corporations with which she continued her employment and would lose her accumulated days for which she would be entitled to credit as against the school corporation with which she had severed her employment.

5. In answer to your fifth question it is pointed out said statute specifically provides "and said teacher shall be entitled to the remainder of his salary *above the expenditure for a substitute* for a period of at least thirty additional days each year after his accumulative days have been used." (Our emphasis.)

The above language in the statute requires no construction and clearly provides that such teacher in such event shall receive his salary less the amount expended for a substitute and if no substitute is employed, and no money so expended, said teacher would receive such salary in full for such period.

OFFICIAL OPINION NO. 121

November 25, 1945.

Hon. Ralph F. Gates, Governor
State of Indiana,
State House,
Indianapolis, Indiana.

My Dear Governor:

I am in receipt of your letter of October 31, 1945, as follows:

> "My attention has been called to the fact that the previous administration of the Employment Security Division has interpreted Section 7 (i) of the Employment Security Act as rendering ineligible those veterans who are not claiming any of the benefits of Section 7 (i) but who, on the contrary have, since their return, fully qualified for unemployment compensation benefits as any other individual, such ineligibility being founded

upon the fact that the veteran is eligible for benefits under the G. I. Bill of Rights.

"This ruling appears to be very unfair and to discriminate against the veteran. Will you kindly give me your official opinion as to whether a veteran is disqualified under these conditions?"

The Indiana Employment Security Act provides benefits during periods of involuntary unemployment for all those who, among other requirements, earned certain minimum amounts (wage credits) during the calendar quarters immediately preceding the quarter in which their unemployment occurs.

Under such provisions and in the absence of further legislation, a person entering military service and remaining in such service for more than two quarter years would not be qualified to receive benefits on his release from service by reason of the fact that he had not had any earnings during the quarters immediately preceding his release. To remedy this situation the General Assembly in 1945 amended the Employment Security Act by adding subsection 7 (i), providing that the benefit rights of the veteran of military service should, in effect, be computed as if the period of military service had not intervened. Clauses (5) and (6) of subsection (i), as amended by Chapter 315 of the 1945 Acts, are as follows:

"(5) Disqualification. In addition to the disqualification of section 7 of this act, an individual shall be ineligible for benefits for any week with respect to which or any part of which he is eligible for any payment or allowance in the nature of unemployment compensation *or by reason of unemployment,* payable by the United States Government by reason of such individual's military or naval service, as described in subsection 7 (i), (1), (2), (3), and (4) hereof. (Our emphasis.)

"(6) In determining benefit rights and eligibility requirements under this section, the board may adopt regulations which will secure results reasonably similar to those provided in analogous provisions of this act."

As compared to this disqualification Section 7 (f) (6) states a disqualification generally applicable to all as follows:

> "(6) For any week with respect to which or a part of which he receives, is receiving, has received or is seeking unemployment benefits under an unemployment compensation law of another state or of the United States; *Provided,* That if the appropriate agency of such other state or of the United States finally determines that he is not entitled to such unemployment benefits, this disqualification shall not apply."

It will be noted that while this disqualifies only those who apply for or receive federal unemployment compensation payments, the special veteran's disqualification in Section 7 (i) (5) disqualifies those who are eligible for such payments even though they do not apply for or receive them.

The question here presented is whether this special veteran's disqualification is applicable only where the veteran is taking advantage of the provisions of subsection 7 (i) or whether it also applies after the veteran has, since his return, earned sufficient wages to establish his rights to benefits independently of the oratorium granted by subsection 7 (i) during his period of military service. If the latter, the veteran would be disqualified until he had wholly exhausted his readjustment rights under the G. I. Bill of Rights (P. L. 346, approved June 22, 1944) even though such readjustment payments are by law to be deducted from any adjusted service compensation hereafter granted. This, as you point out, would discriminate against the veteran after he has fully re-established his civilian rights in the employment security system.

Since Section 7 (i) relates only to benefit rights of those veterans whose rights are being preserved during periods of military service, it is evident that the disqualification contained in paragraph 5 of that subsection can only be intended to apply to those whose claims for benefits are based and founded upon such benefit rights so preserved throughout military service by virtue of said subsection.

The entire context of this subsection negatives any possible intent on the part of the Legislature to discriminate against veterans and in all statutory construction the sole

purpose is to ascertain the intent of the Legislature. Where a clear intent can be collected from the statute as a whole, it will prevail even over the strict letter where that would lead to injustice, contradiction, or absurdity.

Peoples Trust and Savings Bank v. Hennessey (1926), 106 Ind. App. 257.

I am further of the opinion that any such discrimination would be a violation of the Equal Protection Clause of the State and Federal Constitutions and that we may therefore apply the rule that the Legislature did not intend to enact an unconstitutional provision.

County Department v. Potthoff (1942), 220 Ind. 574.

I am therefore of the opinion that where a veteran of the armed forces after his return establishes a right to unemployment compensation benefits based solely on wages earned after his return from service and independently of provisions of Section 7 (i), he is not subject to the disqualification set forth in clause 5 of that subsection, but on the contrary would be governed in this respect by the provision of Section 7 (f) 6. In other words, after thus establishing his right to unemployment compensation on a par with non-veterans the veteran is subject to no greater disqualifications than the non-veteran.

OFFICIAL OPINION NO. 122

November 26, 1945.

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

Dear Sir:

I have before me your letter of November 9th, in which you ask my official opinion upon the following questions: