

to pay could be enforced against the owner by an action at law, the statutory lien could be enforced only by the method provided by statute—a sale of the real estate pursuant to the statutory provisions. By taking away the right to sell real estate to pay delinquent personal property taxes, the only statutory method provided for enforcing the lien, *we must assume that the legislature intended to remove such liens from the real estate. By saying that 'hereafter' no personal property tax delinquency should be included in the sale of the real estate for delinquent taxes, the legislature clearly intended to remove the lien of such taxes from real estate in all cases where the sale had not then been held. * * **" (Our emphasis.)

Therefore it is my opinion that the delinquent personal property tax can not be collected by a tax sale of the real estate.

STATE BOARD OF ACCOUNTS: Tenure teachers must be paid on nine months' basis where last year's contract and new executed contract call for nine months even though trustees thereafter change the school term to eight months.

June 19, 1944.

Opinion No. 60

Hon. Otto K. Jensen, State Examiner,
Department of Inspection and
Supervision of Public Offices,
State House,
Indianapolis 4, Indiana.

Dear Sir:

Your letter of June 6, 1944, received in which you state teachers in certain townships were not dismissed before May 1, 1944, and were therefore automatically rehired at the same salary they received for the 1943-44 school year. On account of their financial condition such school units desire to cut their school terms from nine (9) months to eight (8) months for the school year 1944-45. You desire an official opinion on the following questions:

- a. Do such school units have to pay teachers the same amount for eight (8) months that they would pay for nine (9) months?
- b. In addition to the above, would such school units be required to pay the increases in salary on account of the increase in training and experience?

These questions are controlled by Section 28-4321, Burns' 1943 Supp., same being Sec. 1, Ch. 130, Acts of 1941, which in part reads as follows:

"* * * Contracts wherein a township school corporation is a party shall be deemed to continue in force for the succeeding school year on the same terms and for the same wages plus any increases as provided by the provisions of chapter 101 of the Acts of 1907 and acts amendatory thereof, known as the Teachers' Minimum Wage Law, unless on or before the day during which the teacher has completed his customary reports regarding the promotion of pupils and has filed a copy of same at the office of the township trustee, but in no case later than five (5) days after the expiration of the school term the teacher shall be notified by the school corporation in writing delivered in person or mailed to him or her at last and usual known address by registered mail that such contract will not be renewed for such succeeding year or unless such teacher shall deliver or mail by registered mail to such trustee his or her written resignation as such teacher or unless such contract is superseded by another contract between the parties. * * *"

Section 28-4319, Burns' 1943 Supp., same being Sec. 1, Ch. 112, Acts of 1943, provides a sliding scale of minimum compensation to be paid teachers depending upon the number of weeks of "professional training" credited such teachers. Said Act further provides in part as follows:

"The term 'teacher' as used in this act shall be construed to include all persons working in the public schools who are required by law to secure a license from the state as a prerequisite to the performance of such work and all the terms of this act shall apply

to all such teachers for as long a period as their work in the public school shall continue with the exception that kindergarten teachers may be engaged for a school term of less than eight (8) months."

Attention is called to the fact the furnished copy of the form of contract used by such school unit for the 1943-44 school year sets forth the yearly salary and also the monthly salary for the nine months' period of the contract. Said contract also contains the following provision:

"It is further agreed by the contracting parties that in case the school is closed during the school year by order of the School Trustees, or by order of the Health Authorities, or if through no fault of the teacher the school can not be continued in session, the said teacher shall receive said teacher's regular payments during the time the school is so closed."

The last quoted provision of such contract is in conformity with the provisions of Section 28-4305, Burns' R. S. 1933, same being Sec. 2, Ch. 91, Acts of 1921, which provides as follows:

"If, during the term of a teacher's contract, the school or schools are closed by order of the school corporation, or by order of the health authorities, or if, through no fault of the teacher, school can not be held, such teacher shall receive regular payments during such time the school or schools are closed: Provided, That schools may be closed for a period of not over two (2) weeks for Christmas holidays without payment of salaries for teachers for such time: Provided, That such closing the school for Christmas holidays shall not be construed to shorten the length of the school term."

It is, therefore, my opinion that under the clear provisions of the above statutes, such teachers who have not been notified by the township trustee within the time and according to the terms of the above statutes that such contracts would not be renewed for the succeeding school year, are entitled to contracts on the *same terms* and for the *same wages* plus any increases provided for under the Teachers'

Minimum Wage Law. This would include payment of the minimum compensation required by Section 28-4319, Burns' 1943 Supp., *supra*, for the school term of the contract.

SECRETARY OF STATE: Corporations. Amendment of articles of incorporation increasing shares of stock.
CORPORATIONS: Fees on increase of capital stock.

June 24, 1944.

Opinion No. 61

Hon. Rue J. Alexander,
 Secretary of State,
 State House,
 Indianapolis, Indiana.

Dear Sir:

This will acknowledge receipt of your letter of June 16th, in which you ask my opinion as to the amount of fee to be paid by a corporation desiring to increase its authorized capital stock, as follows:

"* * *, an Indiana corporation, which now has an authorized capital of two hundred thousand (200,000) shares of Two Dollar par value Common Stock and fifteen hundred fourteen (1514) shares of One Hundred Dollar par value Preferred Stock, is considering amending its Articles of Reorganization, increasing the number of authorized shares from two hundred one thousand five hundred fourteen (201,514) to one million five hundred thousand (1,500,000) shares, all of which will be Two Dollar par value Common Stock."

In your letter you refer to the fact that the corporation in question presents for consideration that in December, 1928, it changed its authorized capital stock from 5,000 shares of \$100.00 par value common stock to 200,000 shares of no par value common stock and 5,000 shares of preferred stock of \$100.00 par value, and that at that time the Secretary of State did not require payment of filing fee of one-tenth of one per cent on the assumed par value of \$10.00 per share, upon the filing of an affidavit of an officer of the corporation that no benefit would accrue to the corporation.