visors are legally licensed and are employed by the school corporation under contract and receive not less than the minimum wage provided for by the Teachers' Minimum Wage law.

Chapter 96 of the Acts of 1933 and all Acts amendatory thereto, are expressly repealed by Section 9 of Chapter 263, Acts of 1943, which repeal shall be effective upon the taking effect, as provided by law, of Chapter 263 of the Acts of 1943. Chapter 263 of the Acts of 1943 does not contain an emergency clause and therefore will not be effective until the Acts of 1943 have been duly distributed by the Secretary of State and the Governor has issued his proclamation as provided by law. In the meantime, and until Chapter 263 of the Acts of 1943 becomes effective, Chapter 194 of the Acts of 1943, Burns' R. S. Pocket Supplement, Section 28-1002 remains in full force and effect. In this connection, I call your attention to Burns' R. S. 1933, Section 1-302, which reads:

"No rights vested, or suits instituted, under existing laws shall be affected by repeal thereof, but all such rights may be asserted, and such suits prosecuted, as if such laws had not been repealed."

Under this statute any rights accrued under the provisions of Section 28-1002, supra, prior to the effective date of Chapter 194, Acts 1943, will be vested and remain in full force and effect.

INSURANCE COMMISSIONER: Foreign Casualty Company admitted to do business in Indiana prior to effective date of 1935 Act, right of same to write other classes authorized by its charter.

May 6, 1943.

Hon. Frank J. Viehmann,
Insurance Commissioner,
Department of Insurance,
State House,
Indianapolis, Indiana.

Dear Sir:

This will acknowledge receipt of your letter of March 23, requesting an opinion concerning eligibility of the Fidelity
and Deposit Company of Maryland for a license to issue personal property floater policies. It appears that the Fidelity and Deposit Company of Maryland has been licensed in the State of Indiana since April 16, 1894, and, until the present time, has operated in Indiana as a casualty company.

Section 59 of Chapter 162 of the Acts of 1935 (Sec. 39-3501, Burns’ 1940 Replacement) sets forth various classifications of insurance. Under the classifications as therein set forth, casualty insurance appears to fall under Class 2, and personal property floaters under Class 3. Under the terms of Section 59, a company may write insurance of one or more kinds within a given classification. Thus, if the provisions of Section 59 alone were controlling, it would appear that The Fidelity and Deposit Company of Maryland could not be permitted to write personal property floater policies in Indiana, having already engaged in writing insurance under a different classification.

The provisions of that section, however, appear to be modified by Section 227 (39-4702) of the same act, which provides:

"** * * That where a foreign or alien company, whose charter provides for the transaction of the kind or kinds of insurance described in more than one (1) class of section fifty-nine (Sec. 39-3501) of this act, has been transacting business in this state under a certificate of authority issued by the insurance department or insurance commissioner prior to the passage of this act, such company may be issued a certificate of authority under the provisions of this act to make the kind or kinds of insurance provided by its charter."

A reference to the charter of the Fidelity and Deposit Company of Maryland shows that in 1915 that charter was amended to provide that such corporation might insure

"** * * against any loss or damage to personal property whatsoever, whether the same be in possession of the person or firm or corporation insured, or elsewhere and whether said loss or damage be due to accident, negligence or any other cause; ** * *"

No doubt, that amendment gives the right to write personal property floater policies.
Prior to the 1935 Act, foreign insurance companies were licensed through agents to “transact business of insurance.” See Section 39-1705, Burns’ 1933. It will be noted Section 227 provides that the foreign company may make the kinds of insurance “provided by its charter” and does not read the kinds “heretofore written in Indiana.” As stated in the Opinions of the Attorney General of Indiana, 1940, page 67, in answer to a question concerning the interpretation of Section 227,

“The evident purpose of the proviso of Section 227 above quoted is to except from the operation of the provisions of Section 59 such foreign or alien insurance companies as were licensed to do business in this state prior to the 1935 law, entitling them to make the kind or kinds of insurance provided in their charters or articles of incorporation.”

Since the Fidelity and Deposit Company held a certificate of authority in Indiana prior to the passage of the 1935 Act, and since its charter includes the right to issue both casualty and personal property floater policies, it is my opinion that you would be authorized by Section 227 to issue it a certificate to write personal property floater policies.

BOARD OF EMBALMERS AND FUNERAL DIRECTORS:
Licensing members of partnership,—law applicable.

May 7, 1943.

Mr. Luther J. Shirley, Secretary,
Board of Embalmers and Funeral Directors,
946 North Illinois Street,
Indianapolis, Indiana.

Dear Sir:

Your letter of April 20, 1943 has been received as follows:

“Will you be willing to give us a legal opinion on the following question dealing with Section 6 of Chapter 165 of the 1939 Acts?