in so far as the same applies to cities having a population of 20,000 or over and less than 35,000 inhabitants, as shown by the last preceding United States census. Section 48-1233 is a general statute and applicable to all cities of the state, whereas Section 48-1227 is limited to only certain cities. Further, it is my opinion that the extra compensation provided for by Section 48-1227 must be paid from the funds of the utilities involved and that the governing board of each utility must determine the proportionate amount of the aggregate additional salary allowed by said section, which will be paid by such utility.

STATE SUPERINTENDENT OF PUBLIC INSTRUCTION:
Rights of tenure teachers whose schools are taken within the city limits by legal process.

December 13, 1943.

Hon. Clement T. Malan,
State Superintendent of Public Instruction,
State House,
Indianapolis, Indiana.

Dear Dr. Malan:

This will acknowledge receipt of your letter dated November 24, 1943, which reads as follows:

"Will you kindly give me an official opinion relative to the following question:

"A city corporation takes in adjoining territory by legal process. In the territory taken within the city limits are a number of schools. The teachers in those schools are tenure teachers. Those teachers passed from under the jurisdiction of the township trustee and county superintendent to the jurisdiction of the school board and city superintendent.

"Are those tenure teachers still tenure teachers under the new setup?"

Answering your letter, I find that it is firmly established by the decisions of the Supreme Court of Indiana that there is no liability imposed upon the school city of the civil city
corporation which annexes adjoining territory by a legal process and in which territory are located school buildings, unless such legal liability is specifically imposed by statute. This rule is well stated by the Supreme Court of Indiana in the case of State ex rel. v. Tuhey, 189 Ind. 635 on 639, as follows:

"The school township and the school city have no vested interest in school property. They are but the trustees of the public, and that trusteeship may be changed at any time by a legislative act. * * *

"There is no liability on the part of one school corporation to pay for the property taken from another school corporation by annexation, except such obligation be created by statute."

Board of School Commissioners v. Center Township, 143 Ind. 391;
City of Jeffersonville v. Jeffersonville School Corporation, 77 Ind. App. 32 on 33.

A careful examination of the provisions of the Teacher's Tenure Law of Indiana, as well as all of the other statutes relating to school affairs, fails to disclose any specific provision in any statute which imposes upon the school city corporation of the civil city corporation, which annexes adjacent territory within which schools are located, any liability to perform and fulfill vested contractual obligations incurred under the Teacher's Tenure Law. The only statute in Indiana which imposes any liability upon such school city corporation is found in Burns' 1943 Pocket Supplement, Section 28-3305a, which is Section 1 of Chapter 158, Acts of 1935, and reads as follows:

"In all cases where any city or incorporated town of this state has annexed or shall hereafter annex any territory, or where any town has been or shall hereafter be incorporated, and where the civil township, or school township, from which such territory was or is taken, is indebted or has outstanding unpaid bonds or other obligations at the time of the annexation or incorporation of such territory, then such city or town, as the case may be, shall be liable for, and pay such
proportion of such indebtedness of such civil township or school township as the assessed valuation of property in such annexed or incorporated territory is to the valuation of all property in such township, as the same is assessed for general taxation, prior to the annexation of any such territory or incorporation of any such town. Such annexing city or town, or newly incorporated town, shall pay such part of (or) proportion of such unpaid indebtedness of such civil township or school township to the township trustee: Provided, That in case such indebtedness consists of outstanding unpaid bonds or notes, of such civil township or school township, then such payment to such trustee shall be made at such time as the principal, or any part thereof, or interest of such bonds or notes falls or become due: Provided, further, That if any school building is included in such annexation, the entire remaining indebtedness on such building shall be paid by the annexing city, town, or newly incorporated town, as heretofore provided by law. No annexation of territory under previously enacted laws shall be effective if the liability so created should cause the indebtedness of the annexed city or town to exceed the constitutional limitation on indebtedness of such municipality, or if such annexation would cause the township indebtedness to exceed such limitation after the annexation took place."

It will be observed that the above statute was enacted in 1935, subsequent to the enactment of the Teacher's Tenure Law as amended in 1933, and no provision is made in said act imposing any duty or obligation upon the part of the school city corporation to assume any obligation or liability with respect to teachers' contracts under the Teacher's Tenure Law. If it had been the intention of the Legislature that the school city corporation should assume such obligation and liabilities, such intention could have been clearly stated by the Legislature in appropriate language imposing such liability when the above statute was amended in 1935 or such liability could have been imposed when the Teacher's Tenure Law was amended in 1933.
In view of the law as declared by the Supreme Court in the cases cited *supra*, and in the absence of a specific statute upon the subject, it is my opinion that the tenure teachers referred to in your letter would not continue as tenure teachers under the new set up and that the proper answer to your question is in the negative.

INDIANA STATE PRISON: Powers of the Board of Trustees with reference to issuing warrant, making orders of delinquency and right to revoke parole. Parole by Governor.

December 14, 1943.

Mr. Alfred F. Dowd, Warden,
Indiana State Prison,
Michigan City, Indiana.

Dear Sir:

I have your letter of November 26th in which you set forth the following facts and three inquiries with respect thereto:

"Executive Orders, where a parole has been granted by the Governor upon recommendation of the Clemency Commission, contain the following statements:

"'Upon condition that he remains under the jurisdiction of the proper officials of the Indiana State Prison, and with the understanding that he is to make regular reports until the expiration of his maximum term or until authorized for discharge.

"'This parole will be revoked for any violation thereof, and will be revoked at any time for the good of the prisoner and the interest of society so warrants.'

"If a report to our Board of Trustees indicates that the parolee in question who had been released upon recommendation of the Clemency Commission, under the conditions as above stated, had been convicted as a misdemeanant, had repeatedly violated conditions as to drinking, had disregarded the admonitions of the parole officer in whose charge he was placed, had stolen an automobile and had fled the state and his present whereabouts were unknown, all of which clearly shows the subject to be a parole violator, our