

dred dollars (\$700). * * * The term 'persons engaged in the work of instruction' and the term 'instructor' shall include those persons legally licensed as teachers, principals or supervisors, who are employed under contract and receive not less than the minimum wage provided for by the teachers minimum wage law."

Burns' Indiana Statutes Annotated 1933, (1941 Supp.) Sec. 28-1002; Acts 1933, Chap. 96, Sec. 2, p. 670; 1935, Chap. 161, Sec. 2, p. 586; 1937, Chap. 194, Sec. 2, p. 921.

The purpose of this act is to assist the various public school corporations to bring their teaching staff up to the minimum which the legislature deemed necessary to the proper administration of the schools of Indiana. For this reason, the legislature provided for the part payment of the salary of only those teachers who were being paid the full minimum wage provided by law. It is significant that no provision is made at any place in the law for the apportionment of this amount for part time instructors, unless such instructors were paid the full minimum wage.

The partial qualification for the ninth unit cannot be allowed and paid. State tuition support should be paid for only eight units, and no portion of the \$700 can be paid for the services of a teacher rendering part time services, unless such teacher is paid the full minimum wage.

STATE EXAMINER: Salary of Clerk of city which owns and operates a public utility—whether such Clerk is entitled to the additional salary provided by Chapter 233 of the Acts of 1933 as amended.

March 2, 1942.

Mr. Otto K. Jensen,
State Examiner,
Indianapolis, Indiana.

Dear Sir:

I have your letter wherein you raise the following question:

"Is the city clerk of a city which owns and operates a public utility, or utilities, and which does not have

either a city controller or a clerk-treasurer, entitled to receive the additional salary provided for under Section 21 of Chapter 233, of the acts of 1933, as amended?"

The amendment referred to was made by Chap. 19, Acts of 1941, and is found at Section 1233, Burns' Ind. St. Ann. Supp. 1941. The section as amended reads as follows:

"The common council of each and every city shall, by ordinance duly enacted on or before the first Monday in September, 1933, and thereafter on or before the first day of April of the year in which elections for election of city officers are held, fix the annual salaries of all officers provided for in this Act at not to exceed the amounts herein specified, and such salaries when so fixed for such officers shall not be changed during their respective terms of office. The salaries as herein authorized shall be in full for all services performed for the city including services for any public utility or utilities owned and operated by such city; except that the common council of any city which owns and operates a public utility or utilities shall, by ordinance duly enacted on or before the first Monday in September, 1933, and thereafter on or before the first day of April in the years in which elections for election of city officers are held, provide that the mayor, city attorney, city civil engineer, city controller, and clerk-treasurer of such city may receive, from the funds of such utility or utilities, a salary in addition to the annual salary herein otherwise authorized, which additional salary shall not exceed the sum total of six hundred dollars per year."

The "salaries of all officers provided for" in the Act as referred to in the section quoted are to be found in Sections 11 to 20 inclusive (48-1223 to 48-1232) and Section 22 (48-1234). In Sections 11, 12, 13, 14 and 15 (48-1223 to 48-1227) specific amounts are named as salaries for the "city clerk" of cities of the 1st, 2nd, and 3rd classes. In Sections 16, 17, 18, 19 and 20 (48-1228 to 48-1232) specific amounts are named as salaries for city clerk-treasurers of cities of the 4th and 5th classes. In 1935 the General Assembly amended Section 6,

which names the officers of third class cities, by providing that the city clerk should receive \$600 per year for acting as clerk of the board of public works and safety, which "shall be in addition to the compensation as provided for city clerk in Section 15 (48-1227) of this Act." (48-1216, Burns', etc., Supp. 1941.) Thus the annual salary of a city clerk of a third class city is \$2,400.00.

However, it cannot be said that the additional salary of \$600 provided for in Section 21 (48-1233) *supra*, shall be paid to city clerks. City clerks were omitted from the section when originally enacted, and, after amendment are not included therein. The section is a part of a comprehensive and detailed act providing for the classification and organization of city government and arranging for the compensation of all officials of the municipal corporations created. That the General Assembly did not use the words "city clerk" and "city clerk-treasurer" interchangeably is indicated by many things found in the act, including the fact that wherever provision was made for the office of city clerk provision was made for another office of city treasurer, whereas there was to be but one office of city clerk-treasurer. Not being included in the officers named in Section 48-1233, Burns, *supra*, 1941, there is no authority for paying city clerks of third class cities \$600 per year compensation in addition to the sum of \$2,400 per year authorized by Sections 48-1216 and 48-1227, Burns', *supra*. Your question is answered in the negative.