PUBLIC INSTRUCTION, DEPT. OF: May an existing teacher's contract be restricted by mutual agreement of both parties?

January 8, 1942.

Dr. Clement T. Malan,
State Supt. of Public Instruction,
State House,
Indianapolis, Indiana.

Dear Dr. Malan:

This will acknowledge receipt of your request for an official opinion on the following question:

"May a school corporation with the consent of a teacher rescind an existing contract and make a new contract with different terms such as different compensation, different type of work, or different periods of service?"

Your question does not distinguish between permanent teachers and teachers employed on a year to year basis. One statute which deals with the subject refers only to "permanent teachers" and provides as follows:

"No permanent teacher shall be permitted to cancel his indefinite contract during the school term for which his said contract is in effect nor for a period of thirty (30) days previous to the beginning of such school term unless such cancellation is mutually agreed upon. * * *"

(Acts 1927, Chapter 97, Sec. 4, p. 259; Burns' Indiana Statutes Annotated, Sec. 28-4310.)

This statute prohibits only a cancellation by the teacher against the will of the school corporation, and by the exception of a cancellation by mutual agreement it permits a mutual rescission.

Another statute which applies to all teachers contains the following provision:

"A teacher may on twenty-one (21) days' written notice, delivered by the teacher to the school trustee or board of school trustees, or by mutual agreement in
less than twenty-one (21) days be released from a teaching contract."

(Burns' Indiana Statutes Annotated (1941 Supp.), Sec. 28-4321; Acts 1931, Chapter 77, Sec. 1, p. 457; Acts of 1941, Chapter 30, Sec. 1, p. 369.)

The statute, by recognizing the right of the school corporation mutually to agree with the school teacher as to the release of the contract, permits such a rescission.

A new contract which differed in terms as to compensation, type of work, or different periods of service, might raise questions of appropriations and budgetary problems, upon which this opinion does not attempt to pass.

While the statute contemplates a contract for an entire year (Sec. 28-4304, Burns' Indiana Statutes Annotated, 1933, and Sec. 28-4321, Burns' Indiana Statutes Annotated (1941 Supp.)), the exceptions permitted by the statutes authorize a cancellation by mutual agreement, and your question is answered in the affirmative.

CIVILIAN DEFENSE DIRECTOR, INDIANA: Whether unused election materials may be bailed and sold to help relieve the paper shortage.

January 9, 1942.

Mr. Clarence A. Jackson,
Indiana Civilian Defense Director,
609 Board of Trade Building,
Indianapolis, Indiana.

Dear Mr. Jackson:

I have your recent inquiry in which you state that the various county clerks and county boards of election commissioners have in their possession many pounds of used and unused ballots prepared for use in past elections and other election materials which are of no value. You ask whether or not these ballots and other election materials can be bailed and sold as scrap paper to help relieve the paper shortage during the present war emergency.

There are two statutes in Indiana dealing with the destruction of ballots. The first is Sec. 29-1120 of Burns' Indiana