DEPARTMENT OF PUBLIC INSTRUCTION: Tenure rights of part-time teachers.

December 10, 1942.

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

Dear Sir:

I have before me your letter of December 7, 1942, requesting an official opinion as to the tenure rights of a teacher upon the basis of the following statement of facts.

"The teacher in question has taught a sufficient number of years for the Jeffersonville Township Schools as well as for the Clarksville School Corporation, to be subject to the tenure law if she had been a full time teacher in either school system. However, the teacher involved was not a full time teacher but taught only two days each week in the Clarksville School Corporation as a teacher of music."

I am assuming that the Clarksville School Corporation is not simply a township school but is a school corporation to which the tenure law applies. Upon the basis of the facts as stated and assuming also that she was serving under a contract for each of the years referred to, I am of the opinion that she is a tenure teacher in the Clarksville School Corporation. This seems to be very clearly held by the Court in the case of Sherrod v. Lawrenceburg School City, et al, reported in Vol. 213 at P. 392 of the Indiana Supreme Court Reports. In that case on p. 394, the Court said:

"It is contended by the appellees that the appellant is not a tenure teacher, and that her employment and her salary are not protected by the Teachers' Tenure Law, for the reason that she was, what is termed a "part-time teacher," that is, that she did not teach classes every school day, but only twelve days in each month. There can be no merit in this contention. She was not an occasional teacher, who taught intermittently as a substitute or otherwise. She was a regular teacher. The law does not require that teachers shall teach every day, or every hour of every day. Such subjects as art or music may require fewer hours of teaching. This is in the discretion of the school authorities."
Later on in the same opinion, the Court uses the following language, quoting from P. 395:

"The evidence shows that the appellant was also teaching in other schools, and it is argued that, if one teaching for less than the full time of the school can acquire tenure status, then tenure rights may be acquired in two school corporations. But there is nothing in the statute that forbids it."

I think it is very clear that under the facts as stated and as assumed, such teacher is a tenure teacher.

SECRETARY OF STATE: Whether a foreign corporation into which domestic corporation is merged, in order to do business in Indiana, must qualify under general admission provisions of Indiana Act.

December 16, 1942.

Mr. Warren Day,
Corporation Counsel,
Office of Secretary of State,
State House,
Indianapolis, Indiana.

Dear Sir:
I have before me your request for an official opinion based upon the following brief statement of facts:

"An Indiana corporation desires to merge with an Ohio corporation pursuant to the provisions of Chapter 192 of the Acts of 1937 (Sec. 25-410 Burns' Statutes, 1933). The Ohio corporation will be the surviving corporation after the merger, and will transact a part of its business in the State of Indiana.

Upon the above brief statement of facts you propound the following question:

"Will it be necessary for the surviving Ohio corporation to qualify as a foreign corporation in the