

In view, therefore, of the express language of Section 23 of the Trust Indenture and the further fact that it appears to me that there is no substantial duty or service which the Bank, Trustee, is here required to perform, I am of the opinion that the Adjutant General should make no payments of any monies to The Peoples State Bank of Indianapolis for such alleged expenses as outlined in your letter. It follows, therefore, that the \$6,600.00 appropriated by the General Assembly, if appropriated and earmarked for this purpose, should be allowed to revert to the General Fund.

PUBLIC INSTRUCTION: Rights of tenure teachers in case of consolidation of units in which tenure is held.

May 24, 1941.

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

Dear Mr. Malan:

I have before me your letter requesting an official opinion in answer to the following question:

“When two corporations consolidate for school purposes and erect a joint school building to care for the educational needs of both corporations, do teachers who have gained tenure rights in each corporation before consolidation retain such tenure rights?”

I think the answer to your question is influenced by the method of consolidation which is involved. Under some of the Acts providing for consolidation of school corporations, such consolidation is contractual and the identity of the two contracting corporations is not destroyed. In such a case, I think, the tenure rights of teachers as respects each separate corporation involved would continue, subject to being lost under the provision whereby the cancellation may take place on account of the “justifiable decrease in teaching positions.” In other words, in such case, I think it is obvious that the management of the joint school would not be obliged to employ

all of the tenure teachers if they could justify their dismissal on the ground of "justifiable decrease in the number of teaching positions." (See on this subject the case of *Harris v. State ex rel. Allen*, 212 Ind. 386, quoting extensively from the case of *Ehle, Trustee v. State ex rel. Wissler*, 191 Ind. 502.)

There is at least one law in which the identities of the consolidating corporations are entirely lost and a new entity is created. Under such circumstances, reasoning by analogy, it seems to me that there would be no tenure rights with respect to the new entity. (See *Burns' Indiana Statutes Annotated 1933*, Sec. 28-4307, which shows clearly that the several contracts must be with the same school corporation).

**ALCOHOLIC BEVERAGE COMMISSION: Dance Permits—
whether refunds should be made in case permits are
either rejected or withdrawn.**

Whether dance permits are transferable.

May 26, 1941.

Mr. Hugh A. Barnhart,
Excise Administrator,
Alcoholic Beverages Division,
Indianapolis, Indiana.

Dear Sir:

This is in answer to your request for an opinion interpreting Section 30 of the Alcoholic Beverage Act, as amended by chapter 237 of the Acts of 1941, insofar as such chapter relates to the fee required for dancing permits.

You ask:

"1. (a) Should any refund be made to the applicants for a dancing permit if the application is rejected or withdrawn?

"(b) Why?

"(c) Should the entire amount be refunded or any part thereof?

"2. (a) A dancing permit, once having been