Public Printing shall determine the division of a Class under which the item will be purchased.”

I call attention specially to this provision:

“On all stationery items not specifically listed above, the Director of Printing Purchases of the Board of Public Printing shall determine the division of a class under which the items will be purchased.”

This provision, it seems to me, covers the question and places the duty and power in the Director of Public Printing to determine the division of the class under which the item will be purchased. This provision seems to be amply justified by the provisions of the law as found in the concluding literary paragraph of Section 5 wherein, after setting up the separate classes it is provided that:

“Any matter not mentioned in the above classes shall be placed in the proper classification by the board: * * *”

I think, therefore, that the question is to be determined upon the provisions of the specifications as set out on page 13 and already referred to, to the effect that the “Director of Printing Purchases of the Board of Public Printing shall determine the division of the class under which the item will be purchased.”

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PUBLIC INSTRUCTION, DEPT. OF: Whether failure of the county superintendent to approve a teacher’s contract affects the teacher’s contractual status.

October 22, 1941.

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

Dear Mr. Malan:

I have your request for an official opinion in answer to the following question:

“If a township trustee in a township school system, through friendship, close association, coercion, or for any cause unwisely and against the advice of the
county superintendent of schools, appoints a teacher known or believed to be undesirable and said county superintendent does not approve (on Form A-21 attached) said appointee's license, what is the status of such appointment?"

You have marked the form accompanying the request to indicate that it was stated thereon that "after examination of the license, experience and training" of the teacher, approval was "not given for her to teach." The county superintendent's advice and form upon which it is furnished, as referred to in your question, were obtained pursuant to Sec. 3 of the Teachers' Tenure Law:

"No teacher shall be appointed by any such school corporation in Indiana, and no teacher shall become a permanent teacher in any such school corporation, until the school superintendent shall have made a report upon such teacher's preparation, experience and license and it shall be the duty of every such superintendent, with ten days after request, to make such report upon any person whom the school corporation is considering as an applicant; Provided, That nothing contained in this section shall be deemed to prevent the granting to any superintendent of additional authority; in the selection and employment of teachers either by law or by the rules or regulations of any such school corporation." Sec. 28-4309, Burns' Ind. St. Ann. 1933; Acts 1927, Ch. 97, Sec. 3, p. 259; Acts 1933, Ch. 116, Sec. 3, p. 716.

This section of the statute has been construed heretofore by the Attorney General (Reports and Opinions, Attorney General of Indiana, 1929-1930, p. 273) and in three decisions of the Indiana Supreme Court (Kostanger v. State ex rel. Ramsey (1933) 205 Ind. 536, 187 N. E. 337; State ex rel. Clark v. Stout (1934) 206 Ind. 58, 187 N. E. 267 and Whit latch v. School Town of Milan (1935) 209 Ind. 75, 198 N. E. 85) wherein the following construction of the section was approved:

"The requirements of Sec. 3 of the Teacher Tenure Act must be treated as advisory to the employing officials and not as creating a condition precedent to a
school corporation's entering into a valid contract with a teacher." Whitlach v. School Town of Milan, supra, p. 79.

It would follow from the foregoing that the statute does not render a teacher's contract void because the superintendent's approval of the "teacher's preparation, experience and license" was not given. Also, it should be noted that the statute is silent as to the superintendent's "approval," but provides that he shall make a "report" upon the teacher's "preparation, experience and license."

The fact that the contract was made with the teacher despite the absence of "approval" of the county superintendent will not affect the teacher's contractual status.

ACCOUNTS, STATE BOARD OF: Legal fees of county coroner.

Mr. Otto K. Jensen,
State Examiner,
Department of Inspection and Supervision
of Public Offices,
Indianapolis, Indiana.

Dear Sir:

Your letter of September 22nd, 1941, requests my opinion upon the following question:

"1. Is the allowance to a county coroner for services in holding an inquest rendered on additional day or days after the first day based upon:

(a) A single per diem for all additional services performed on the same calendar day?
(b) A separate per diem fee for services performed in each case upon which he holds an inquest on the same calendar day?"

Sec. 49-2917 Burns' Indiana Statutes, 1933 provides that the fees of the coroner shall be:

(a) Impaneling and swearing witnesses and making and returning inquisitions for viewing each body for first day, five dollars ($5.00).