than fire, such as lightning, earthquake, tornado, hail, and many others, not only on buildings but also upon every description of personal property. It is not reasonable to believe that the legislature intended the tax in question to be collected alone of actual fire companies when a large part of their business did not involve fire, and on the other hand permit casualty companies and other organizations writing fire risks to go untaxed.

The section of the statute under consideration does not use the term fire companies in a necessarily exclusive sense. The section does not define fire companies and its apparent purpose is to require the tax as related to fire risks, the term fire companies being a loose, but not improper, designation of such companies and organizations as write such fire risks.

It is therefore my opinion that said section 20-818 applies to all companies and organizations writing fire premiums in Indiana.

FINANCIAL INSTITUTIONS, DEPARTMENT OF: Loans of $300 or less at 8 per cent discount, validity of under Petty Loan Act.

June 12, 1939.

Hon. Ross H. Wallace, Director,
Department of Financial Institutions,
Indianapolis, Indiana.

Dear Sir:

I have before me your request for an official opinion as to whether an individual, partnership or corporation can legally make loans of $300.00 or less at 8 per cent discount without violating the provisions of the Petty Loan Act as the same was amended by chapter 154 of the Acts of 1933.

The Petty Loan Act above referred to is embodied in chapter 30 of title 18 of Burns Indiana Statutes Annotated (1933), the same being sections 18-3001 to 18-3005. Section 1 of the Act, as amended, provides, among other things, that:

"Except as otherwise authorized by this Act and unless and until a license shall have been obtained as in this Act provided no person, copartnership, or corporation shall engage in the business of making loans of money, credit, goods, or things in action in the amount
or of the value of three hundred dollars ($300) or less and charge, contract for, or receive on any such loan a greater rate of interest or consideration therefor than the lender would be permitted by law to charge if he were not a licensee hereunder.” * * *

Burns Indiana Statutes Annotated (1933), section 18-3001.

Section 4 of the Act, as amended, provides in part as follows:

“No person, copartnership or corporation except as authorized by this Act shall directly or indirectly, charge, contract for, or receive any interest or consideration greater than the lender would be permitted by law to charge if not a licensee hereunder upon the loan, use or forbearance of money, goods or things in action or upon the loan, use or sale of credit, of the amount or value of three hundred dollars ($300) or less.” * * *

Burns Indiana Statutes Annotated (1933), section 18-3004.

I call your attention to the fact that section 1, supra, before amendment, in lieu of the language above quoted contained the following language:

“That no person, co-partnership, or corporation shall make any loan of money, credit, goods, or things in action in the amount or to the value of three hundred ($300.00) dollars or less, whether secured or unsecured, and charge, contract for, or receive therefor a greater rate of interest than eight per centum per annum, without first obtaining a license from the auditor of the State of Indiana.” * * *


Similarly section 4 of said Act, before amendment, used in lieu of the language above quoted the following:

“No person, co-partnership or corporation except as authorized by this Act shall, directly or indirectly charge, contract for, or receive any interest or consideration greater than eight (8) per centum per an-
num upon the loan, use or forbearance of money, goods or things in action or upon the loan, use or sale of credit, of the amount or value of three hundred ($300.00) dollars or less.” * * *


Significantly at the time of the passage of the Petty Loan Act of 1917 it was provided by statute:

“That the interest on loans or forbearance of money, goods or things in action, when the parties do not agree on the rate, shall be six dollars a year on one hundred dollars, and at that rate for a greater or less sum, or for a shorter or longer time, but it may be taken yearly, or for a shorter period in advance, and no agreement to pay a higher rate shall be valid, unless the same be in writing, signed by the party to be charged thereby, and in such case it shall not be lawful to contract for more than eight per centum per annum.”

Acts of 1879, p. 43.

Whether the term “interest” as used in the last above quoted provision of the statute should be construed to include discount so as to authorize a contract agreeing to pay for a loan of money at the rate of 8 per cent per annum discount may be open to some question. However, in 1929 this provision was amended so as to expressly provide that:

“‘Interest’ as used in this and the succeeding sections of this Act shall include discount and may be paid and collected in advance.”


Whatever may have been the rule before this amendment, I think from that time forward it was legal to charge interest at the rate of 8 per cent per annum discount by so agreeing, in writing, signed by the party to be charged. I mention this because the 1917 Petty Loan Act, both in section 1 and in section 4, in limiting the rate per annum which might be charged on such loans without obtaining a license, used the terms in section 1 “eight per centum per annum” and in section 4 “eight (8) per centum per annum,” which would
probably not authorize the charging of an 8 per cent discount which would be slightly more than 8 per cent interest as that term is very commonly used. However, when sections 1 and 4 of the Petty Loan Act were amended in 1933 they substituted for eight (8) per centum per annum the language "a greater rate of interest or consideration therefor than the lender would be permitted by law to charge if he were not a licensee hereunder" in section 1, and "greater than the lender would be permitted by law to charge if not a licensee hereunder" in section 4. The purpose of these changes I think is evident, namely: To make the language of the Petty Loan Act with respect to the rates which might be charged without being a licensee correspond exactly with the usury statute. Since the usury statute uses the term "interest" as including discount, I think the word "interest" in the Petty Loan Act as it is used in the foregoing connections should also be construed to include discount.

It is my opinion, therefore, that an individual, partnership or corporation can make loans at $300.00 or less at 8 per cent discount provided the agreement for such a charge is in writing and signed by the person to be charged thereby.

ACCOUNTS, STATE BOARD OF: Burial expenses, inmates of county infirmary, whether borne by county where body is claimed by relatives.

June 15, 1939.

Mr. E. P. Brennan,
State Examiner,
State House,
Indianapolis, Indiana.

My dear Mr. Brennan:

In your letter of June 14, 1939, you submit the following question:

"If the body of an inmate of a county infirmary is claimed by relatives or legal representatives, would the county have any authority to pay the burial expense?"

Section 52-104, Burns 1933, provides:

"Every county shall maintain a county asylum, in addition to any other charitable institution permitted