February 7, 1939, declared the law to be constitutional and in full force and effect.

"After the decision of the lower court rendered, and before January, 1939, there were filed with the department a number of applications for refund of unearned fees under the provisions of said section 7. These applications set out one of the provisions upon which refunds could be applied for—these reasons being that the vehicle had either been transferred to another person, or the vehicle had been otherwise disposed of, or that the owner had discontinued its operation.

"The question is, shall the Department of Treasury refund the unearned portion of the fees to the applicants set out in the foregoing and described cases?"

Section 7 of chapter 255 of the Acts of 1937 provides:

"Any person who shall transfer the ownership of any motor vehicle, or whose motor vehicle is otherwise disposed of or who discontinues the operation of his motor vehicle, after having paid the license fee imposed hereby may return the plate issued to him by the Department of Treasury and said department shall thereof refund to such person the unearned portion of the fee originally paid by him. One-twelfth of the annual fee shall be refunded to the motor carrier for each full month remaining in the year after the date upon which the plate is returned to the department."

In answer to your question I wish to advise you that it is my judgment, if the applicant has complied with said section, the Department of Treasury should refund the unearned portion of the fees to the applicant.

ACCOUNTS, STATE BOARD OF: Chattel mortgages, assignment or release by two or more in single instrument; fees chargeable by recorder.

March 16, 1939.

Mr. E. P. Brennan, State Examiner,
State Board of Accounts,
Indianapolis, Indiana.

Dear Sir:

I have your favor of the 7th inst. in which you submit the following questions:
“Can two or more chattel mortgages be assigned or released in a single instrument?

“If your answer to the above question is ‘yes,’ then what fee should the recorder charge for filing or assigning two or more chattel mortgages.”

It is presumed that your question has reference to chattel mortgages under the law of 1935, Acts of 1935, p. 498.

The answer to your question involves the interpretation to be put upon sections 10 and 11 of the Act above referred to. It will be noted from the reading of these sections that this act does not contemplate the recording of chattel mortgages at full length, as was required under former laws, but simply that each instrument shall be filed with the county recorder of the proper county and that said officer shall keep a book to be designated as “Chattel Mortgage Minute Book” in which he shall enter all essential facts as required by statute as to each chattel mortgage filed in his office. Section 10 has to do with the filing of the mortgages with the county recorder and section 11 with the filing of assignments and releases upon mortgages already filed.

It will be observed that there is nothing in either section of these Acts prohibiting the filing of one instrument covering more than one assignment or release of a mortgage. The Act does contemplate, however, that the recorder shall make the proper minute in his chattel mortgage minute book as to each mortgage released or assigned. Accordingly, while one instrument may permissibly cover assignments and releases of more than one chattel mortgage, it remains that the recorder must make a separate entry as to each and every mortgage released or assigned and of which he has a record in his chattel mortgage minute book. The answer to your first question is, therefore, in the affirmative.

The answer to your second question relating to fees to be charged by the county recorder in the event of the filing in his office of an instrument covering more than one release or assignment of a chattel mortgage is more difficult.

As before stated, full recording of mortgages is dispensed with under the Act of 1935. Moreover, section 11 of the Act provides for alternative methods of releasing and assigning mortgages, one by signing in the chattel mortgage minute book attested by the county recorder and the other by filing a separate instrument assigning or releasing the mortgage, in
which latter event the county recorder enters the assignment or release in the proper column in his chattel mortgage minute book, as provided in the statute. Section 14 of the Act covers fees, the language being as follows:

"* * * For filing and entering each instrument or copy including any assignments indorsed thereon and issuing a receipt for same fifty cents (50c); * * *"

This evidently contemplates the filing of an original chattel mortgage which may contain an endorsement assigning same to some third party. This section further provides:

"* * * for attesting a marginal assignment or release, ten cents (10c); * * *"

The difficulty with this language is found in the words "a marginal assignment or release." Under former laws this would be perfectly understood in that releases and assignments could be placed in the margin of the page of the chattel mortgage record in which the mortgage had been recorded. Under the present law the mortgage is not recorded and only the proper entry is made under the heading "remarks" in the chattel mortgage minute book required to be kept by the county recorder. This may be the equivalent of a marginal release under the old law and is perhaps what is intended by the language used in section 14 of the Act. It appears, however, from section 11, above referred to, that in any event the county recorder attests the release or assignment of a mortgage in his chattel mortgage book, as required by law, whether the release or assignment is by a separate instrument or by so-called marginal assignment or release, it is the duty of the recorder to attest the same in the chattel mortgage minute book. The statute provides for a fee of ten cents (10c) for such attestation. It is my thought then that it was intended that the recorder should charge a fee of ten cents (10c) for each release or assignment in view of the fact that the statute provides a fee of ten cents (10c) for the attestation thereof in the chattel mortgage minute book.

My opinion is then that it was intended that the fee of the county recorder for the filing of a release or assignment covering more than one mortgage would be as follows:

Fifty cents (50c) for the filing of the instrument itself and ten cents (10c) for the attestation by the
county recorder of a release or assignment of a mortgage in his chattel mortgage minute book, the ten cent (10c) fee to be applied to each and every mortgage in said instrument released or assigned.

PUBLICT INSTRUCTION, DEPARTMENT OF: Administrative licenses, whether State Board of Education may require Master's degree for.

March 21, 1939.

Hon. Grover Van Duyn,
Assistant Superintendent of Public Instruction,
Department of Education,
Indianapolis, Indiana.

Dear Sir:

I have your request for an opinion upon the following question:

"Is the State Board of Education given the authority to require a Master's degree for an administrative license?"

The answer to the foregoing question depends upon the interpretation to be given Acts 1923, ch. 11, p. 36; Secs. 28-4201 to 29-4217, incl., Burns Indiana Statutes, 1933. In Sec. 28-4209, 1a, 2a, 3a and 4a, Superintendent's, Supervisor's, High School principal's and Elementary School principal's licenses (hereinafter referred to as administrative licenses) first grade, are authorized. It is provided that each such license "may be issued to persons who are graduates of a standard or approved university, college or normal school (four-year course), and who have completed in addition one year of graduate work." Such graduate work shall specialize in (1a) administration and supervision, (2a) school supervision, (3a) high school or in elementary and high school administration and supervision, or (4a) in elementary school, or elementary and high school, administration and supervision, according to the kind of license sought.

Section 28-4211, Burns, etc., provides that the State Board of Education may, at its discretion and on proper notice, cease to issue any license of a grade lower than the first grade provided for in the Act. Pursuant to proper action under this