positions or for other good and just cause as provided by section 2 of the act, the teacher would retain his or her tenure status regardless of the abandonment of the subjects he or she was licensed to teach. Cancellation in the manner prescribed in the act, is the only way by which the school corporation can, by its own initiative, terminate the tenure status. It is possible for the teacher to lose his or her tenure rights by a valid contract which waives such rights, by death, by cancellation as provided by section 4 of the act, or by voluntary retirement, change of schools, or other act which would constitute an abandonment of the contract. I am assuming that none of these things have taken place.

In answer to your question, it is my opinion that upon restoration of the subjects which the teacher is licensed to teach, he or she does not “regain” his or her tenure. Rather, in the absence of cancellation or abandonment such as mentioned above, the tenure rights have never been lost by such teacher, and of course, the right to employment would still remain.

TEACHERS’ RETIREMENT FUND BOARD: Construction of chapter 240 of Acts of 1933, authorizing the pledging of “frozen” public deposits. October 6, 1933.

Hon. Robert B. Hougham,
Executive Secretary,
State Teachers Retirement Fund,
Indianapolis, Indiana.

Dear Sir:
I have before me your letter as follows:

“On the application of Adams township, Warren County, for a temporary loan from the teachers’ retirement fund secured by restricted funds and tax anticipation of that township, the question has arisen as to whether or not the tax limitation provided by chapter 237 of the Acts of 1933, applies to the levies made for the repayment of loans on money borrowed under the provisions of chapter 240, Acts of 1933, and whether the so-called ‘dollar and dollar and one-half law’ would apply to loans made under the provisions of chapter 240, Acts of 1933.”
Section 1 of chapter 240, of the Acts of 1933, provides in part that:

"The state of Indiana or any municipal corporation of the state of Indiana, which has public funds on deposit in any bank which is or may hereafter be in charge of any receiver, or the department of financial institutions, or any liquidating agent, or which shall have failed or refused for any reason to permit the withdrawal of any such funds, upon warrant of the state or such municipal corporation, legally issued, is hereby authorized to borrow such sum or sums of money as, in the opinion of the proper authorities of the state or such municipal corporation, may be necessary for the proper conduct of the business of the state of such corporation."


Section 2 of said act authorized the proper authorities of the state or any such municipal corporation:

"to pledge and/or hypothecate any or all of such deposits, and to execute, acknowledge and deliver such assignments, documents and instruments in writing as may be necessary to transfer all right, title and interest in and to such deposits, or so much thereof as may be required to secure the repayment of any such loan or loans, and the interest which shall have accrued thereon."


Section 2 of said act further provides that "the full faith and credit of such borrower is hereby pledged to repay any and all money so borrowed, together with any and all interest which shall have accrued thereon."


The above act became a law by virtue of an emergency stated in section 8 thereof on March 11, 1933. Two days prior thereto, the so-called "dollar and one-half" law referred to by you went into effect by virtue of an emergency stated in this latter act.

You desire advice as to whether the so-called "dollar and one-half" law is in limitation of the borrowing power of mu-
municipalities proceeding under and pursuant to chapter 240, supra.

It is fundamental in the construction of statutes that the intent of the legislature is the end sought. Likewise, in construing statutes, the history and condition of the times as suggesting the evil to be corrected, or some public purpose to be conserved, are of first consideration. It is common knowledge that when the legislature met in 1933, it was confronted with the fact that bank failures in unprecedented numbers had "frozen" public deposits in closed banks in such large amounts as to seriously embarrass many of the units of government in carrying out the usual and necessary governmental functions. It was likewise confronted with an insistent demand for the lowering of tax levies, and the two acts under consideration were enacted in response to such conditions and demand. I think, too, following well settled rules of construction, the two acts should be construed together with those conditions and demands in view. Insofar as there may be conflict, however, if that conflict be irreconcilable, the latter act must be held to prevail.

Section 4 of the act, sets out the procedure to be followed in making the loan. It makes the municipal authorities the sole judge of the necessity of the loan, and section 1 makes such authorities the final authority as to the form and terms thereof, except that the interest shall not exceed five per cent. per annum. Moreover, section 4 provides that the proper authorities may proceed to make such loan or loans without complying with the provisions of any law of the state except said chapter 240.

Your attention also is called to the fact that by the provisions of section 2 of chapter 240, as already noted, "the full faith and credit" of the borrower is pledged to the repayment of the money borrowed. That means, in my opinion, that if the loan is legally made, the borrower must repay the money borrowed. Moreover, the loan must be repaid according to the tenor of the instrument evidencing it.

In my opinion, therefore, such obligations issued pursuant to the terms of chapter 240 of the Acts of 1933, are valid and binding obligations of the borrower and that the so-called "dollar and one-half" law is not a limitation of the borrowing power of municipalities in such cases.