PUBLIC INSTRUCTION, DEPT. OF: Tenure teacher—effect of discontinuance of licensed subjects.

December 16, 1933.

Hon. Grover VanDuyn,
Assistant Superintendent,
Department of Public Instruction,
Indianapolis, Indiana.

Dear Sir:
I have before me your letter of November 27, 1933, seeking my opinion on the following matter:

"A tenure teacher of music, art and domestic science, holding a license in no other subjects, is automatically dismissed because her subjects were eliminated from the curricula.

"Is she eligible to resume her position with the status of a tenure teacher upon the reinstatement of these subjects in the curricula of this school system? Is her reinstatement as a tenure teacher mandatory or optional upon the part of the local officials?"

Section 1 of the Teacher Tenure Act, after prescribing the conditions under which a teacher shall become a "permanent teacher" serving under an "indefinite contract," makes the following provision:

"Such an indefinite contract shall remain in force until such permanent teacher shall have reached the age of sixty-six years unless succeeded by a new contract signed by both parties or unless it shall be cancelled as provided in section 2 of this act * * *."
(Our italics.)

Section 2, Chapter 97, Acts of 1927; (As amended, Section 1, Chapter 116, Acts of 1933).

Section 2 of the act provides that "Any indefinite contract with a permanent teacher as defined in Section 1 of this Act may be cancelled only in the following manner: * * *," setting out the procedure for cancellation and the grounds upon which cancellation may be had. (Our italics.)

Section 2, Chapter 97, Acts of 1927; (As amended, Section 2, Chapter 116, Acts of 1933).
In view of these provisions in the law, it would appear that the teacher in question still remains a tenure teacher, regardless of the discontinuance of the subjects which she is licensed to teach, in the absence of any act of her own, which might constitute a waiver or abandonment of her tenure rights under her indefinite contract, unless cancellation has been effected by the school corporation according to the procedure outlined in the Act. If cancellation has been legally had, it is my opinion that she is in the same position as any other non-tenure teacher, and that the tenure status may be regained only by again teaching five or more successive years in the same school city corporation or school town corporation, and by entering into a contract for the sixth year’s service in such corporation.

CONSERVATION DEPT.: Authority of conservation department, by permit, to authorize trapping of quail for propagation purposes.

December 18, 1933.

Hon. Kenneth M. Kunkel,
Director, Fish and Game Division,
Conservation Department,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter of December 16, 1933, which reads as follows:

“My predecessor in this position granted to Mr. Powel Crosley, Jr., of Cincinnati, Ohio, the authority to trap quail on his twenty-four hundred acre farm in southern Indiana.

“The form of permit is enclosed. Have I the power to grant such a permit?”

The permit attached to your letter authorized “Powel Crosley, Jr., and John Ellers, and all other bona fide employees of the said Crosley when directed by him” to trap quail, for propagation purposes only, on lands in this state owned or leased by the said Crosley, “for and on behalf of the Department of Conservation, State of Indiana.” Certain conditions are attached to the permit, providing that “one-third of the quail reared to an age of twelve weeks or older, shall be liberated in the State of Indiana by said Crosley in the year