PURDUE UNIVERSITY: Stallion enrollment board—priority as between stallion service fee and prior chattel mortgage on mare and increase.

December 27, 1933.

Mr. R. B. Cooley, Secretary,
Stallion Enrollment Board,
Purdue University,
Lafayette, Indiana.

Dear Sir:

I have before me your letter of December 18, 1933, seeking my opinion on the following question:

Where a mare that is mortgaged is bred to a properly enrolled stallion in Indiana, does the stallion service fee have priority over the mortgage; and, more particularly, which has priority where the mortgage is drawn so as to cover both the mare and her offspring?

The stallion enrollment law of this state contains the following provision:

"Having complied with the provisions of this Act, the owner of any stallion shall have a lien for the sum stipulated to be paid for the services thereof; upon the offspring of such stallion by filing at any time within twenty-four months after the date of service, a statement of the account thereof, together with a description as to color, and white markings of the female served, and the name of the owner at the date of the service, in the county recorder’s office of the county wherein owner of said female resided at the time of service. Such lien shall exist for a period of eighteen months from the date of foaling of said colt, or if credit is given, from the expiration of the credit, and shall have priority over all other liens and encumbrances upon the offspring. * * *" (Our italics).

Section 4, Chapter 32, Acts of 1933.

Since the lien given by the statute in a proper case is a lien on the offspring only, and not upon the mare, no question of priority arises where the existing mortgage is on the mare alone.

Where there is a mortgage covering both the mare and the offspring, the question of priority is answered by that
provision of the Act which says that the statutory lien on the offspring for services of the stallion "shall have priority over all other liens and encumbrances upon the offspring." This is conditioned, of course, upon the proper steps having been taken in each case to procure the statutory lien.

TEACHERS' RETIREMENT FUND BOARD: Whether teacher retired on annuity may accept employment under CWA and continue to draw the annuity.

December 27, 1933.

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

Dear Sir:

I have before me your letter as follows:

"The question has arisen as to whether or not a teacher who is on annuity in the Indiana State Teachers' Retirement Fund should continue to receive said annuity should they be employed in the educational work under the CWA as unemployed teachers. I think our general rule has been this, that a teacher can draw annuity if they are doing anything except teaching in the public schools of Indiana, and we are wondering whether the Civil Works Administration employment would be any different."

Section 6991 of Burns' Annotated Indiana Statutes of 1926 provides in part as follows:

"Any person who shall have taught twenty-five years or more in the public schools and who ceases to be in the employ of the public schools of the state, for any cause, may, in lieu of any other benefit, be entitled to an annuity payable as above, of such an amount as the then present value of the annuity which would otherwise have ultimately been available, computed on the actuarial basis provided for, will purchase at such teacher's age of retirement, based upon actuarial tables made a part of this law or as so later adopted by the board of trustees." (Our italics).