PUBLIC INSTRUCTION, DEPARTMENT OF: Question of authority to dismiss member of a school board in cities of the second class.

March 3, 1933.

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

Dear Sir:

Your letter has just been received asking the following question:

"What body has the authority to dismiss a member of a school board in cities of the second class, such as Anderson?"

In answer to the above question, I refer you to section 6559 of Burns R. S. of 1926, which provides for the election of school trustees by the common council of each city. This act was first passed in 1905 (see Acts 1905, p. 437) and was amended in 1915 (see Acts 1915, p. 73) and was again amended in 1919 (see Acts 1919, p. 801). Since this time, there appears to be no further amendments to the act, hence, it is presumed that the same is in full force at this time. Such act, as said above, provides for the election of each trustee by the common council of the city in which such school city is located for a period of three years, but makes no provision for removal. Hence, it is my opinion that such trustee, when so elected, is a duly elected public officer and as such can be removed only in the manner provided by statute for removal of public officers.

The general City and Town Act of 1905, provides for the removal of city officers, but since this act does not deal with school cities, it is my opinion that its provisions do not apply to trustees of school cities.

Such being the case, the general law for impeachment of officers would apply. This law is found in the Acts of 1897, p. 278, being sections 12104 to 12139, inclusive. Section 12124 Burns R. S. 1926 provides for an accusation in writing by the grand jury of the county for or in which the officer accused is elected or appointed. The accusation is delivered to the prosecuting attorney and a copy served upon the defendant, together with a notice in writing of not less than ten days re-
inquiring the defendant to appear before the circuit court or
criminal court to answer the accusation. The sections follow-
ing determine the procedure to be followed.

However, if the charge against the officer is that of charg-
ing and collecting illegal fees for services rendered or to be
rendered in his office, or the refusal or neglect to perform
the official duties pertaining to the office, such accusation may
be in writing verified by the oath of any person and pre-
presented or filed in the circuit court of the county, whereupon
a citation is issued by such court requiring the party to appear
upon a day named not less than five nor more than ten days
from the time such accusation is presented. Upon such day
or upon such subsequent day as the court may fix, not more
than twenty days from the time the accusation is presented,
the court proceeds to hear the accusation and evidence in a
summary manner and, if on such hearing it appears that the
charge is sustained, the court must enter a decree that the
party accused be deprived of his office, and must enter a judg-
ment for five hundred dollars in favor of the prosecuting
officer, and such other costs as are allowed in civil cases.

ACCOUNTS, BOARD OF: Whether time warrants consti-
tute legal investments for funds of police pension fund.

March 6, 1933.

Hon. Lawrence F. Orr,
State Examiner,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter requesting an official opinion
as to whether time warrants lawfully issued by cities pur-
suant to section 10286 of Burns Annotated Indiana Statutes
of 1926, constitute such securities as are legal investments for
funds belonging to the police pension fund as provided by

Section 10286, supra, provides in part as follows:

"The common council of every city shall have power
to manage the finances thereof, subject, however, to the
powers and duties vested by this act in the several
executive departments of cities of the first, second,
third and fourth classes. Such common council, on