of their loan, the cost, 4½ cents per hundred dollars per month, to be borne by the borrower. The Union charges 1 per cent per month interest on the loan so the insurance charge mentioned above is an additional charge to the borrower. Is such a plan legal?"

I am of the opinion that there can be no objection to this procedure when it is a part of the contract between the parties. Therefore, I am of the opinion that it could be applied on all new loans in that it could be made a part of each contract as it is entered into. However, it cannot be made retroactive; that is, it cannot be made applicable to loans now in force unless the borrower in each case specifically contracts to pay the additional charge.

SEcurities Commission: Registration fees—Par value of share of stock.  

May 22, 1936.

Hon. Chester R. Montgomery,  
Securities Commissioner,  
203 State House,  
Indianapolis, Indiana.

Dear Sir:

I have your letter of May 22, 1936, in which you state the following facts:

"There are before the Commission at the present time, several matters concerning issuers whose offered securities have a stated par value, but which securities at the time of issuance and sale to the public, are offered at a much greater price. The basis for such offering price is usually the asset value of the security when issued and sold; and the establishment of such asset value and of such issue and sale price is authorized by the articles of incorporation or other basic indentures of the respective issuers.

"The Commission respectfully requests your opinion as to the basis upon which a fee shall be charged at the time of the registration of securities, when the stated par value of the security is not the asset value of the security and is not the value at which the corporation issues and sells its securities to the public."
You request my opinion as to the proper fees for registration of the securities in question under Section 8 of the Indiana Securities Law as amended by the Acts of 1935, page 879.

Section 8, as amended, supra, provides in part as follows:

"At the time of filing the information, as hereinbefore prescribed in this section, the applicant shall pay to the commissioner a fee of one-twentieth of one percent of the aggregate par value of the securities to be sold in this state, for which the applicant is seeking registration, but in no case shall such fee be less than twenty-five dollars, and the commission may in its discretion limit the amount of securities that may be registered at any one time of any one issue. In the case of stock having no par value, the price at which such stock is to be offered to the public shall be deemed to be the par value of such stock."

The filing fee of twenty-five dollars attaches in all cases. The question then presented is upon what basis should the one-twentieth of one percent of the aggregate par value be calculated.

I am of the opinion that the fee should be based on the actual sales price of the securities rather than the par value as stated in the articles of incorporation; in other words, the calculation should be made on the actual sales value basis.

The amount of the fee chargeable is based on the "par value" of the stock. "Par value" has been construed to mean an amount equal to the amount actually subscribed and paid for the stock.

46 Corpus Juris, 1175, and Cases cited.

Par value of a share of stock is a sum which is equal to, or the par of, the value which it represents, the amount that has actually been paid into the treasury upon it.


"Capital stock" is the aggregate amount of money, or other valuable thing contributed, or paid into a common treasury as a condition or security for the faithful exercise of the corporate functions.

State v. Guaranty Savings Building and Loan Ass'n., 225 Ala. 481, 144 So. 104.
Moreover, in determining the meaning of "capital stock" the term should not be controlled by descriptive words, but rather by the qualities possessed by it.

State v. Guaranty Savings Building and Loan Ass’n., supra.

In view of the judicial interpretations of "par value" and "capital stock," it is my opinion that the actual sales value should be looked to in determining the par value. It is true that the articles of incorporation of the corporation state the par value of its capital stock to be a nominal amount. This does not necessarily represent the true par value thereof.

Therefore, par value is actual value, or offering price to the public and shall be deemed to be the true par value of such securities and should be made the basis of calculation in determining the amount of the fee chargeable under Section 8, as amended, supra. The nominal par value as stated in the articles of incorporation may be disregarded.

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TEACHERS' RETIREMENT FUND BOARD: Membership in Retirement Fund by teachers of state institutions does not depend on license from State Board.

May 25, 1936.

Mr. Robert B. Hougham,
Executive Secretary, Indiana
State Teachers' Retirement Fund Board,
310 State House,
Indianapolis, Indiana.

Dear Sir:

This is in answer to your letter of May 22, 1936, requesting an opinion on the question whether or not teachers in certain state institutional schools, who do not have a teacher's license from the State Board are eligible to membership in the Indiana State Teachers' Retirement Fund.

You refer specifically to teachers for the Indiana State School for the Deaf and the State School for the Blind. You say, "many of these teachers are not licensed but have been paying into the retirement fund and a few have been retired on an annuity who were never licensed teachers."