You state also that "some of the poles are to be placed in the drainage ditch" and that "a pole so placed would prevent us from dragging the shoulders, impede drainage, and otherwise interfere with the maintenance of the road." You submit the following further question:

"Would such results unnecessarily impair the usefulness of the highway?"

This is a question of fact, pure and simple, and will have to be determined upon that basis.

PUBLIC INSTRUCTION, OFFICE OF SUPT. OF: Meaning of "eighteen weeks training" as used in teachers' minimum salary law of 1935.

January 30, 1936.

Hon. Floyd I. McMurray,
Superintendent of Public
Instruction,
Indianapolis, Indiana.

Dear Sir:

I have before me your request for an official opinion in answer to the following questions:

"1. Since Section 2 of Chapter 315 of the Acts of 1935 refer to 144 weeks of professional training as the maximum training for which a teacher's salary may be based, does this designated number of weeks determine a basis for an interpretation of semester and term hours in relation to the periods of eighteen (18) weeks referred to?

"2. Since the average student load for eighteen (18) weeks is fifteen (15) semester hours, or twenty-four (24) term hours, may a teacher receive an increase of $2.50 per month for eighteen (18) weeks' training when less than the average load is carried during the eighteen (18) weeks' training?

"3. May a teacher receive the increase of $2.50 per month as herein provided for professional work done for a period of eighteen (18) weeks for which the college in which the work was taken refuses to grant full credit because of inferior work or because of unprepared courses?"
“4. May twenty-four (24) term hours, or fifteen (15) semester hours of professional standard work successfully completed in an accredited college be used as a basis of the salary increase as equivalent to eighteen (18) weeks of resident work?”

The provisions of the statute requiring interpretation are as follows:

“That the minimum compensation of beginning teachers with seventy-two weeks of professional training shall be one hundred dollars per month for a minimum term of eight months. That the sum of two dollars and fifty cents per month shall be added for each year of teaching experience up to and including the fourth additional year and that the sum of two dollars and fifty cents per month shall be added for each eighteen weeks of additional professional training until such teacher shall have earned one hundred forty-four weeks of professional training. Teachers who have had five years of teaching experience, acquired either in whole or in part thereof before or subsequent to the time when the minimum teachers’ training requirements became effective shall have the same status and shall receive the same compensation as teachers who have had five years of teaching experience. The minimum compensation of beginning high school teachers shall be one hundred twenty-five dollars per month for a minimum term of eight months. That the sum of two dollars and fifty cents per month shall be added for each year of teaching experience up to and including the fourth additional year.”


The italicized language in the above quotation is the source of the difficulty. What is meant by “eighteen weeks,” “seventy-two weeks,” “one hundred forty-four weeks”? Do the terms refer to length of attendance only irrespective of the number of hours work done, or is there included in the terms the idea of length of attendance plus hours of work done? An examination of the licensing provisions of the law reveals similar provisions. For example, in section 28-4207 of Burns
Indiana Statutes Annotated (1933) is found the following language:

"No teacher's license valid in the elementary schools shall be issued after December 1, 1923, to any person not previously holding an elementary school license valid in Indiana who is not a graduate of a commissioned high school (four-year course) or the equivalent, and who has not had, in addition, at least one (1) year (thirty-six (36) weeks) of approved professional preparation related to teaching in the elementary school;"

Moreover in section 28-4209 of Burns Indiana Statutes Annotated (1933) similar expressions are found. It provides, for example, that "A superintendent's license, third grade, may be issued to persons who have completed the equivalent of three (3) years of work in a standard or approved university," etc. Other illustrations could be given.

Evidently something must be read into the above terms in addition to length of attendance in order to give them any reasonable meaning. Clearly three years work, the student carrying only ten semester hours, would not be equivalent of the same length of attendance, the student carrying fifteen semester hours, which is the usual load. These terms are in the licensing laws which have been in effect since December 1, 1923. How have they been defined in the administration of those laws? I find upon inquiry that one year has uniformly been held by the Department of Education as constituting thirty-six weeks or thirty semester hours; that is the carrying of the average load of fifteen hours during two semesters of eighteen weeks each. Translated into term hours one year is held, similarly, to constitute forty-eight term hours.

The enactment under consideration, therefore, should be construed with reference to the meaning of similar terms as used in the licensing laws and which have received a consistent departmental construction for a period of at least twelve years.

It follows from what has been said herein that your first and fourth questions should be answered in the affirmative and your second in the negative.

As to your third question, I think the eighteen weeks of
training referred to in the statute which entitles the teacher to an increase must be work of a character for which the college in which the work was taken gives a full fifteen semester hours or twenty-four term hours of credit. Your third question is answered in the negative.

INHERITANCE TAX DIVISION: Inheritance tax law—“Memorial”, “funeral expenses” and “mausoleum” defined.

January 30, 1936.

Hon. Isaac Kane Parks,
Inheritance Tax Administrator,
231 State House,
Indianapolis, Indiana.

Dear Sir:

This is in response to your request of January 22, 1936, which is as follows:

"Mary Winans Spilker died June 8, 1933, testate. By item VII of her will she provided that her executors should sell certain real estate at either private or public sale and at such time or on such terms and conditions as to them seem proper and to execute deeds, etc.

"Said item VII further provided:
‘I further authorize and direct my said executors or the survivor of them to apply the proceeds of the sale of said property as follows:
‘Ten thousand ($10,000.00) of said sum to be used by my executors in the purchase and erection of a Mausoleum on my lot in Beech Grove Cemetery and providing a fund for the perpetual care of said lot and Mausoleum and I hereby authorize and direct my said executors to pay over to the trustees of Beech Grove Cemetery so much of said ten thousand ($10,000.00) as shall not be used in the purchase and erection of said Mausoleum under a contract with said trustees, providing that said trustees, or their successors in office, shall use said funds for the perpetual care and