poration in which the parents reside may thus be shifted. Generally speaking, in my opinion, it cannot, and although there may be and doubtless are cases where, under the facts, a bona fide residence of a minor child separate and apart from the residence of the parents may be obtained, each case necessarily will have to be determined upon its own peculiar facts.

PUBLIC INSTRUCTION, OFFICE OF SUPT. OF: Right of committee on specifications for construction of school bus bodies to change specifications after being once agreed upon them.

January 31, 1936.

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

Dear Sir:

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

"Question 1. May the Committee change its prescribed specifications for construction?
"Question 2. May a bus that has been placed on the approval list for 1935 be approved for the year 1936?
"Question 3. In the light of the above questions, will you please give your interpretation of the following excerpt as found in Section 9: "such buses shall be placed on an approved list and any school authority shall thereafter be permitted to buy, lease or contract for the use of any such bus"?

The particular provision of the law to be construed is section 9 of Chapter 303 of the Acts of 1935 which is as follows:

"That a committee consisting of the state superintendent of public instruction, the secretary of the state board of health, the chief of the motor vehicle regulation division of the public service commission, the state director of safety and the administrative officer of the department of commerce and industry shall, by proper rules and regulations, prescribe standards of
construction and equipment of school buses, in conformity with the provisions of this act, and shall inspect any and all buses which may be offered for sale or lease to school authorities, and if such buses so inspected and the construction thereof are found to be satisfactory and in compliance with the provisions of this act, and the rules and regulations of the committee, such buses shall be placed on an approved list and any school authority shall thereafter be permitted to buy, lease or contract for the use of any such bus.”


It is made the duty of the committee provided for in said section, by proper rules and regulations to “prescribe standards of construction and equipment of school buses” in conformity with the provisions of the Act; and to “inspect any and all buses which may be offered for sale or lease to school authorities.” Those which are found to be satisfactory and in compliance with the Act and the rules and regulations of the committee are to be placed on an approved list and any school authority “shall thereafter be permitted to buy, lease or contract for the use of any such bus.”

The Act is silent on the question as to whether an approval once made may be withdrawn and also on the question as to whether the committee may change its rules and regulations, but in my opinion, the absence of an express provision authorizing changes is not persuasive of the lack of power. In other words, I do not think that the Act contemplates the creation of a committee for the purpose of establishing a standard and that, after having done so, its duties for all time in that respect are done. Frequent changes may not be good policy, but that question is for the committee to determine, upon the basis of the safety and health of the children, limited only by the provision that any standard fixed must be “in conformity with the provisions of this Act.” Manufacturers of school bus bodies acquire no legal rights, by virtue of a standard having been fixed by the committee, which prevents a change being made. The same, in my opinion, is true of approvals. In fact, I think approvals must be based upon standards fixed by the committee and if the committee by proper rules and regulations adopts a change
in a standard, it would clearly have the right to withdraw approvals on bodies which do not meet the new standard.

In conclusion it should be understood that I am not discussing the question of policy, but rather the question of power. Your first and second questions are both answered in the affirmative. The third question is answered by the foregoing discussion.

SINKING FUND FOR PUBLIC DEPOSITS: Depository banks—Whether may use January 1, a legal holiday, for the purpose of establishing a minimum monthly balance as a basis for interest payments.

February 1, 1936.

Hon. Ross Teckemeyer,
Secretary State Sinking Fund,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter in part as follows:

"It has been brought to my attention that the County Auditors are retaining checks for distribution of tax until December 31st, so as to maintain a high minimum balance in their depositories. By mailing them to the several municipalities and trustees on December 31st, because of the holiday, these officials cannot deposit the same until January 2nd. In so doing the banks are allowed to pay interest for January on the minimum balances of the municipalities other than the County as of January 1st. Naturally, the large number of warrants will reduce the County balances to a minimum on or about January 3rd, the Sinking Fund losing the interest because of these bookkeeping balances as of January 1st."

You submit the following question:

"Can a depository use a minimum balance on January 1st, which is a legal holiday, for computing the depository interest, or should the banks be required to use the minimum balances at the close of business on some date after January 1st?"