conditions shall be consistent with the provisions of this Act."

I do not think the above quoted provision operates to destroy the rights of teachers in said institutions who have availed themselves of the provisions of the Teachers Retirement Fund Act, if the institution shall now avail itself of the above appropriation in setting up a supplemental plan.

In arriving at this conclusion, I think the provision of the Appropriation Act should be construed in connection with the above quoted provision so as to give effect to what is the evident intent of the legislature.

It may be claimed that the appropriation of a fund for retirement, pensions and annuities does not amount to a pension or annuity system provided by the State, so as to exclude it from the prohibitory language of the above quoted proviso, but it is difficult to see for what purpose the authority embraced in the appropriation was given unless it was for the purpose of providing a supplemental system, the details of which to be left to the institutions involved to work out.

It seems to me, therefore, that the purpose of this appropriation was to provide under State sanction and at least partially at State expense, a supplemental system of teachers' pensions and annuities, and that the carrying out of such plan would not be contrary to the proviso of the Teachers Retirement Fund Act quoted earlier in this opinion.

FINANCIAL INSTITUTIONS, DEPARTMENT OF: Intangible Tax Law. Chargeable to owner and not issuer of intangible.

April 8, 1937.

Hon. Homer O. Stone, Supervisor,
Division of Small Loans,
Department of Financial Institutions,
Indianapolis, Indiana.

Dear Sir:

This will acknowledge receipt of your letter of March 6, 1937, in which you submit the following question:

> "Can a small loan licensee operating under chapter 125, Acts of 1917 amended by chapter 154, Acts of 1933 charge the borrower for the intangible tax stamps attached to the note secured by a chattel mortgage?"

In answer to this question beg to say that our Supreme Court, in the case of Zoercher, et al., v. Indiana Associated Telephone Corporation, has held that section 64-902, Burns Indiana Statutes, 1933 Revision, did not intend to impose a tax on the person who issues and executes an intangible. This decision contains the following language:

> "We are clearly of the opinion that the legislature, by the Act in question, intended to impose the tax upon the owner of the intangibles and not upon the issuers of the intangibles."

It is apparent, therefore, from the decision above quoted, that the man who executes his note and mortgage to the loan company cannot legally be charged with the intangible tax required under the law to be collected on such intangible.

ACCOUNTS, STATE BOARD OF: Official bonds, premiums on bonds of deputy officer properly payable out of public funds.

April 8, 1937.

Hon. W. P. Cosgrove,
State Examiner,
State Board of Accounts,
Indianapolis, Indiana.

Dear Sir:

This will acknowledge receipt of your letter of April 6 containing the following questions:

> "Can the Board of County Commissioners legally pay from public funds the premium for a surety bond on a deputy appointed by the county auditor, county treasurer, county recorder, county sheriff, county coroner, or county surveyor, where a bond is required by the officer making the appointment under section 49-501, Burns 1933, where the bond is made payable to 'the State of Indiana'?