within the provisions of the 1937 Act, the sister was excluded from the class to be known as the beneficiary.

Thus, then, to answer your question specifically, it is my opinion that the dependent sister of whom you spoke ceased to be a beneficiary to the firemen's pension fund by reason of the 1937 Firemen's Pension Fund Act and the election of the city to come under its provisions.

FINANCIAL INSTITUTIONS, DEPARTMENT OF: Garnishee law—Application to conditional sales contracts.

March 10, 1938.

Hon. Ross H. Wallace,
Director Department of Financial Institutions,
Indianapolis, Indiana.

Dear Sir:

This will acknowledge receipt of your letter of February 25, 1938 in which you submit the following question:

"Section 20 of the Uniform Conditional Sales Act (Acts of 1935, chap. 182, p. 918) indicates that holders of conditional sales contracts may, upon default, retake and resell personal property secured thereby, and secure deficiency judgment against the conditional purchasers. The Garnishment law (as amended by chapter 84, Acts 1937, p. 440) specifically excepts garnishment execution 'upon any judgment upon any contract of the sale of personal property unless the title to said property passes at the time of the sale' (sec. 5, p. 443) except where denial of the remedy is unconstitutional.

"Are we correct in our assumption that garnishee action is prohibited covering deficiency judgments resulting from conditional sales contracts. An official opinion on this subject would be appreciated."

It is my opinion that the language of Section 5, Chapter 84 of the Acts of the General Assembly for 1937 as quoted requires that your question be answered in the affirmative.
ACCOUNTS, STATE BOARD OF: Fees and expenses for transporting insane patients to and from State hospitals.  

March 10, 1938.

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

Dear Mr. Cosgrove:

This will acknowledge receipt of your letter of March 9th, in which you inquire as to whether or not a county sheriff is entitled to a fee of $1.50 per day for the support of each patient being conveyed to or from a state hospital.

This request has reference to Section 22-1224 Burns’ Indiana Statutes, 1933 Revision, which provided as follows:

* * * “and for taking a patient to the hospital, or removing one therefrom, upon warrant of the clerk, mileage going and returning at the rate of ten cents (10c) per mile, and one dollar fifty cents ($1.50) per day for the support of each patient on the way to and from the hospital.”

The above quoted section was contained in the amendment as adopted by the Acts of the General Assembly of 1929. In 1932, however, a fee and salary Act was passed, same being Section 49-1315 Burns’ Indiana Statutes, 1933 Revision, which reads in part as follows:

“The sheriffs of the several counties of this state shall be entitled to charge and collect the following amounts on account of the services performed by such sheriffs, which shall belong to and be the property of the sheriff performing such service:

“(a) For removing persons to the state prison, reformatory, state farm, women’s prison, boys’ school, girls’ school, any state hospital or other state institution, the following amount:

“1. If such persons be transported by a common carrier, the actual cost of transportation for the sheriff, for each person in custody and for each attendant allowed by law who may actually accompany such sheriff, together with any other expenses necessarily incurred.
"2. If such persons be transported by a conveyance furnished by the sheriff, the sum of eight cents (8¢) per mile for each mile necessarily traveled, by each such conveyance, but not more than one (1) mileage shall be charged for any one (1) conveyance, although transporting more than one (1) person."

It will be noted that this statute makes no provision for the support of the patient or individual being transported. Section 49-1317 Burns’ Indiana Statutes, 1933 Revision, expressly repeals all laws and parts of laws in conflict with the above Act.

I can find no provision in the Act, therefore, which now warrants the sheriff in making a flat charge of $1.50 per day for the custody of such patient while being transported. Your attention, however, is directed to an opinion of the Attorney General addressed to you under date of July 2nd, 1936, in which this office held, with reference to charges for transportation, as follows:

"It will be noted that no provision is made in the paragraph providing for a mileage charge where the persons are being transported by a conveyance furnished by the sheriff, for any other expenses, but obviously other expenses necessarily incurred are contemplated. I do not think it is intended that the mileage allowance is to cover anything other than the cost of transportation and if, under order of court, assistants to the sheriff are required, payment for such assistants is authorized, not upon the basis of mileage but upon the basis of services rendered. I think this is made clear by the language used in paragraph 1, supra, quoted from the Act and also by the provisions of Section 2 which apply to a case where the commissioners furnish the motor vehicle, in which latter case it is expressly provided that 'the sheriff shall be entitled to be reimbursed for any other expenses which may lawfully incur other than mileage.'"

I am in accord with the foregoing decision. It is my opinion, therefore, that the sheriff would not be entitled to charge and collect a fee of $1.50 per day for the support of patients taken to insane hospitals, but if additional expenses were
necessarily incurred during the trip, such amount as was necessarily and actually expended might be lawfully claimed by such sheriff.

ACCOUNTS, STATE BOARD OF: Cities of fifth class—Salaries of officials of the City of Nappanee for the year 1939.

March 10, 1938.

Hon. W. P. Cosgrove,
State Examiner,
   Department of Inspection and
   Supervision of Public Offices,
   Indianapolis, Indiana.

Dear Sir:

I have before me your letter of March 3rd wherein you present the following facts and questions:

"The City of Nappanee, according to the census report of 1930, had a population of 2,937.

"Under the provisions of Chapter 233, Acts of 1933, cities with a population of less than three thousand, as shown by the last preceding United States census, became civil towns as of January 1, 1934.

"In the case of Nappanee, an action was brought in the Elkhart Superior Court and the court decreed that the City of Nappanee was a civil city of the fifth class and enjoined the holding of an election. I am submitting herewith a copy of the decree.

"Chapter 97 of the Acts of 1935, reduced the minimum population for cities of the fifth class from 3,000 to 2,000. In Section 2 of this Act, it provides in part, as follows:

"* * * On and after the first Monday in January, 1939, in all cities having a population of less than three thousand (3,000), as shown by the last preceding United States census, the annual salaries of officers of such city shall be fixed by the common council as hereinafter provided, at not to exceed the following amounts: mayor, five hundred dollars ($500); clerk-treasurer, five hundred dollars ($500);