priated to meet such obligations. It may be that a failure to appropriate a sum sufficient to pay all teachers employed in the township would operate to prevent the payment of any teacher a sum in excess of the minimum wage scale. I feel, however, that the township trustee can determine his course of action from the principles of law above set forth.

PUBLIC SERVICE COMMISSION: Authority of Commission to cancel indemnity undertaking of Peoples Motor Coach Co., after it has been taken over by Indianapolis Railways, Inc.

June 1, 1938.

Mr. Perry McCart,
Chairman, Division of Public Service Commission,
State House,
Indianapolis, Indiana.

Dear Sir:

This is in response to your recent request for an opinion as to the authority of your commission in the matter of certain indemnity undertakings. You say:

"On the 28th day of April, 1930, a certain written indemnity undertaking executed by American States Insurance Company guaranteeing payment of damages by George C. Forrey, Jr., receiver of Indianapolis Street Railway Company and Peoples Motor Coach Company was filed with and approved by the Public Service Commission of Indiana. The date of approval was July 9, 1930.

"This indemnity undertaking guaranteed the payment of all damages which may result from any and all accidents due to negligence in the use or operation of motor vehicles by the said George C. Forrey, Jr., receiver of the said railway company, his agents and/or employees, from and after April 18, 1930, and by said George C. Forrey, Jr., receiver of the Peoples Motor Coach Company, his agents and/or employees, from and after April 26, 1930, such guarantee inuring to the benefit of, and being payable to the State of Indiana
for the benefit of persons suffering personal injuries or property damages, on account of such negligence.

"A petition is now on file with the Public Service Commission which requests the Public Service Commission to cancel the indemnity undertaking hereinbefore referred to and have the same returned to the American States Insurance Company.

"The petition avers that Indianapolis Railways, Inc., on June 7, 1932, became the owner of the property and assets of the Indianapolis Street Railway Company by purchase and receivership and as such purchaser assumed said receiver's tort liabilities arising out of the use or operation of said motor busses by said receivers; that pursuant to the provisions of Paragraph 7, Section 3, of the Indiana Corporation Act, the Indianapolis Railways, Inc., and the Peoples Motor Coach Company executed an instrument whereby they have bound themselves unto the State of Indiana to pay all unpaid sums for the payment of which said American States Insurance Company obligated itself in said indemnity undertaking.

"The joint instrument is now tendered to the Public Service Commission for approval and it is requested that in lieu of this joint instrument the commission should cancel and surrender the indemnity undertaking executed by the American States Insurance Company. It is claimed that any further liability arising from said receiver's operation is wholly contingent upon some now unknown claimants making such claims and that so far as petitioners are advised, all damages due to negligence in the operation by said receiver have been fully paid."

You further say:

"The purpose of this letter is to obtain from you an opinion as to whether the Public Service Commission has authority to order this indemnity undertaking cancelled and returned as requested. The commission is being urged to comply with the request of the petitioners and we are not taking any action until advised as to our authority in the matter."
Chapter 46 of the Acts of 1925 declares motor carriers operated for hire to be public utilities and permission to operate them is required from the Public Service Commission of Indiana, and, Section 3 of the statute requires that a bond of indemnity or policy of insurance be filed to the approval of the commission guaranteeing the payment of damages resulting from accidents due to negligence in the operation of such motor vehicle. This provision of Section 3 was superseded by Section 10 of Chapter 287 of the Acts of 1935, and Section 10 was amended by Chapter 169 of the Acts of 1937, but the requirements for insurance remain substantially the same as in 1925.

In accordance with this provision the indemnity undertaking to which you refer was given by the American States Insurance Company and approved July 9, 1930. The purpose of the statute in requiring a bond was to give protection against loss on account of personal injury or property damage caused by vehicles which your commission had authorized to operate over the public highways of the state. There is at present a possibility that some claim may be asserted against the receiver for which there is a liability on the undertaking of the American States Insurance Company. For instance, by one who has heretofore been under legal disability, and as long as a potential liability exists, the indemnitee is responsible on the undertaking. The commission would certainly have authority to accept a new undertaking in place of the one approved July 9, 1930. However, this would operate only to relieve the American States Insurance Company from any liability arising after the acceptance of the new undertaking in lieu of the old one, but the liability for claims accruing before the new undertaking was approved would still stand unchanged and any tort claimant would have a right to proceed against the old undertaking.

No doubt, it is correct, as the petition before the commission states, that the Indianapolis Railways, Incorporated, when it took over the property from the receiver, assumed the tort claims of the receiver, and that this was a provision of the decree of court, and any claimant against the receiver would have a remedy in an action against the railway by virtue of such decree. Nevertheless, it is the duty of the commission, made so by law, to see to it that a bond or undertaking is on file with it, affording the protection contemplated by the statute.
Coming now to your question, I do not believe you have any authority to surrender the indemnity undertaking given by the American States Insurance Company and approved July 9, 1930. It may be as set out in the petition that any possible liability is now so remote that a continuance of the particular bond is unnecessary, but I am quite certain that the surrender of the bond on file with the state and the acceptance of a new one executed by a different indemnitor in its place, is a responsibility you are not required to assume.

FINANCIAL INSTITUTIONS, DEPARTMENT OF: Finance companies' right to employ retail dealer to make collections on contracts.

June 3, 1938.

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

Dear Sir:

This will acknowledge receipt of your letter of May 26, in which you submit a question as to the right of a licensee under the Retail Installment Sales Act to employ retail sellers to make collections on retail installment sales contracts.

In reply to this question your attention is directed to section 10 of the Retail Installment Sales Act which reads in part as follows:

"No licensee shall enter into any agreement with any retail seller regarding the purchase of any retail installment contract whereby the retail seller shall receive, directly or indirectly, any benefit from or part of any amount collected or received from any retail buyer, as a finance charge or as the cost of the insurance to the retail buyer, in excess of an amount fixed and determined by the department and no licensee shall directly or indirectly pay any part of the amount collected as a finance charge or retail buyer's cost of insurance to any retail seller on any retail installment contract purchased from him in excess of the amount so fixed; and the department shall fix such maximum amount which may be so paid * * *"