

A STUDY OF ATTITUDES AND PROBLEMS RELATING  
TO STATE-WIDE TENURE AND COMPULSORY  
BARGAINING FOR TEACHERS IN MICHIGAN

Thesis for the Degree of Ed. D.  
MICHIGAN STATE UNIVERSITY

JACK E. MEEDER

1968

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## ABSTRACT

### A STUDY OF ATTITUDES AND PROBLEMS RELATING TO STATE-WIDE TENURE AND COMPULSORY BARGAINING FOR TEACHERS IN MICHIGAN

by Jack E. Meeder

This study describes educator and school board attitudes regarding mandatory state-wide tenure for the Public School teachers of Michigan. It relates the 1964 tenure law to the 1965 law granting compulsory bargaining rights to teachers. The inconsistencies that resulted are described. Problems arising from both laws are explored.

The research was based primarily on three questionnaires to 539 educators and school board members. Selected interviews with persons who had important responsibilities relating to tenure and compulsory bargaining were a part of this research.

Major findings are that educators and school board members were in favor of tenure for teachers. Teachers are more secure but there is great doubt that tenure will improve teaching. The superintendents of 59 Michigan School Districts that had tenure previous to the State-wide Law, were certain that tenure had not lowered the teaching performance in their districts. Appeals to the State Tenure Commission had not increased because of the new tenure law. Late resignations arising from the new law were not a severe problem.



Jack E. Meeder

Enough teachers are not being retained to indicate that tenure can work to weed out incompetents.

There is a severe conflict between the Mandatory Tenure Law and the Compulsory Bargaining Law in Michigan. Individual contracts and master contracts resulting from bargaining are in great disharmony. The major conflict results from the fact that individual contracts are required by law. Tenure rights are derived from individual contractual status. But, teachers are withholding individual contracts pending a master contract negotiated by their local bargaining unit. If individual contracts are withheld past certain dates specified in tenure law, can teachers claim tenure rights? The Courts and the Legislature will have to reduce these conflicts.

It is clear that tenure protection and compulsory bargaining rights have vastly increased the economic powers of teachers. It is not yet clear whether the status of teaching as a profession will be advanced.

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FOR TEACHERS IN MICHIGAN

By

Jack E. Meeder

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## CHAPTER 1

### THE PROBLEM

#### Statement of the Problem

The years 1964-65 marked the beginning of a new era for teachers. Michigan, in particular, was foremost among states giving new statutory rights to teachers. The new laws gave teachers security and power, which began an extraordinary change in their status. One law granted tenure rights to public school teachers; a second law granted collective bargaining rights. School boards and educators were greatly concerned with these new laws. What would their effect be on education?

State wide tenure, granted by the legislature in 1964, generally gave teachers permanent status in a school district after serving a short probationary period of two years. No teacher, on tenure, could be dismissed arbitrarily. School boards were now required by law to follow definite procedures before dismissing teaching personnel.

The 1964 tenure act revisions were followed in 1965 by another radical change. Public Act 379, the Michigan Public Employment Relations Act, a law regulating management and labor relations in industry, was altered to include public employees. Teachers, who had long maintained that they were distinct from laborers, accepted the powerful



methods of labor to gain better working conditions and better salaries. Public Act 379 gave teachers the right to negotiate with management. New responsibilities and pressures were now placed on teachers, administrators and board members. The threat of withholding teaching services was suddenly thrust upon ill-prepared school boards and administrators. This sudden addition to teacher rights was the reason Chapter VI was added to this study at a late stage. It seemed important to consider compulsory negotiations in relation to the tenure rights.

This study is designed to probe the impact of tenure of Michigan Education after the new tenure law had been in effect for one year. The general hypothesis is: Mandatory tenure was desired by teachers, administrators and board members because of a desire to improve teaching and to give teachers greater security. This general hypothesis was examined by eight minor hypotheses which form the basis of this study. They are:

1. Tenure will result in better supervision of teachers.
2. Tenure will help eliminate poor teachers.
3. Tenure will give teachers greater security.
4. Tenure will upgrade the profession.
5. Tenure was needed because inadequate teachers are too numerous.
6. Tenure was needed to protect teachers from arbitrary dismissal.
7. School size has an influence upon attitudes toward tenure.

8. Tenure does not effect teacher performance adversely.

### The Need for This Research

The Michigan teaching profession underwent a major change in the school year 1964-65. All of the more than 1,000 school districts came under provisions of a mandatory tenure law. Only 59 districts had experienced tenure under provisions of the optional law. The experience of these 59 districts should provide indications of the possible effects of the law on those districts of the state without tenure experience. This was a unique time to examine the views of educators and others as teachers attain provisions of a tenure law.

Although the conditions of 1964-65 will never be repeated, this study, hopefully, can describe significant attitudes and beliefs covering tenure in Michigan near the conclusion of the first year of implementation. Later studies of tenure in Michigan would have the benefit of this work.

This dissertation is a status study. The main effort will be given to an examination of attitudes relating to tenure. During the last quarter of the 1964-65 school year, a questionnaire was used to elicit the views of public school educators and school board members from sixty school districts in the state of Michigan. What are educators' views of tenure as they observe the change from an optional tenure state to one in which all of Michigan's public schools are required to comply with a tenure law? The views of educators and board members

will provide significant perceptions of the application of tenure for teachers.

### Methods

The eight specific hypotheses listed in the statement of the problem were the basis for the two questionnaires which were developed. These questionnaires provided for anonymity of respondents as well as for positive, negative or neutral responses. The first questionnaire was used with 480 educators and board members who were concluding their first year of experience with the tenure law. A second questionnaire was used to elicit the opinions of the 59 superintendents of schools in Michigan which had experienced tenure under the local option law of 1937.

Interviews were also held with individuals in positions of responsibility related to the implementation of tenure. The five members of the tenure commission and their secretary were interviewed. Key members of the Michigan Education Association were interviewed.

Accordingly, the case load of the Tenure Commission as represented by appeals from local school board decisions was reviewed. This procedure would provide additional evidence of how well the tenure law was working. A poor tenure law would likely cause an increase in appeals from school board decisions to the Tenure Commission.

A questionnaire was designed to ascertain whether the tenure law was functioning to eliminate inadequate teachers and whether teacher

## CHAPTER II

### A REVIEW OF TENURE LITERATURE

#### Introduction

The literature on tenure consists of only a few works of national interest. There is only one major book. It was written in 1934. There are two studies by the two major national teachers organizations. These three works will be reviewed in some detail.

There are numerous articles relating to various phases of tenure. One detailed study of appeals in Pennsylvania will be reviewed and compared with the national and Michigan scene to illuminate this important aspect of tenure.

A few articles of importance to Michigan will be reviewed. A brief review of the international aspects of tenure will provide a larger perspective. A text on personnel problems which contained an excellent chapter devoted to teacher tenure will be instructive.

#### A Major Study by Scott

Cecil Winfield Scott wrote a major work about tenure in 1934.<sup>1</sup> Its full title is: Indefinite Teacher Tenure A Critical Study of the Historical, Legal, Operative and Comparative Aspects. This

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<sup>1</sup>Scott, op. cit.

dissertation, published by Columbia University, had one major objective:  
 ". . . to ascertain what provisions should make up an indefinite tenure  
 law or what guiding principles should control the framing of one that  
 aims at the greatest possible protection of the interests of all groups  
 concerned . . . ." <sup>2</sup>

This major purpose was subdivided into six minor ones.

1. To trace the development of tenure.
2. To analyze existing laws and to evaluate them.
3. To identify the fundamental problems of tenure.
4. To identify problems further and to exhibit legal aspects through a study of cases of appeal of dismissal by school boards.
5. To compare six European countries with American states having tenure.
6. To develop recommendations for tenure. <sup>3</sup>

Scott stated that (in 1934) there were inadequate studies in the area of tenure. The best study at that time (according to Scott) was by Holmstedt. <sup>4</sup> He had compared New Jersey under tenure with Connecticut, a non-tenure state. The major conclusions were that tenure caused inadequate teachers to be dismissed earlier, that tenure may have stabilized teacher mobility very little, that with or without tenure,

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<sup>2</sup>Ibid., p. 2.

<sup>3</sup>Ibid., p. 2, paraphrased.

<sup>4</sup>Holmstedt, Raleigh W., "A Study of the Effects of the Teacher Tenure Law in New Jersey," Contributions to Education No. 526, Bureau of Publications, Teacher's College, Columbia University, New York, 1932.

teachers showed the same amount of interest in professional growth and "that protection is the chief value of the New Jersey law."<sup>5</sup>

Tenure and civil service are regarded to have a close relationship. "Teachers in European countries are, generally speaking, regarded as civil servants, having legal protection in their positions; but only twelve American states and the District of Columbia have accorded teachers in this country such legal protection."<sup>6</sup> Scott gives state teacher organizations affiliated with the National Education Association the main credit for the enactment of tenure laws while also giving minor credit to the American Federation of Teachers.<sup>7</sup>

He evaluated the tenure laws of these twelve states and the District of Columbia by the following criteria developed from a study of the literature:

1. comprehensive--applies to all districts in a state and to all instructional personnel,
2. assures competent educational personnel (properly certified),
3. facilitates the administration of educational personnel (transfer, suspend or dismiss an employee when needed),
4. guarantees teachers just treatment (allows change for improvement and gives orderly dismissal procedures).<sup>8</sup>

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<sup>5</sup>Scott, op. cit., p. 5.

<sup>6</sup>Ibid., p. 9.

<sup>7</sup>Ibid., p. 25.

<sup>8</sup>Ibid., mostly paraphrased from the conclusions of Chapter III.



Scott concluded that existing tenure laws were decidedly incomplete and inadequate on the basis of the criteria. "Provisions omitted most frequently from the laws are these:

1. state-wide application
2. transfer regulations
3. a requirement of written resignation and time notice
4. a warning to unsatisfactory teachers and the opportunity for improvement
5. a written board decision after a hearing with a fixed time limit
6. provision for appeal to higher educational authorities."<sup>9</sup>

Referring to serious defects in these thirteen tenure laws, Scott mentions that seven fail to mention teacher qualifications, five fail to mention specific causes for dismissal and eight make no provision for appeal from dismissal.<sup>10</sup>

The operation of the tenure laws of this time (1934) are summarized in Chapter IV. The biggest problem created by tenure is that of removing undesirable teachers from office. In some large cities, e.g. Duluth and St. Paul, Minneapolis, and Newark, New Jersey, whole years pass without the dismissal of a single teacher.<sup>11</sup> Other

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<sup>9</sup>Ibid., pp. 46 and 47.

<sup>10</sup>Ibid., p. 48.

<sup>11</sup>Ibid., p. 67.

points mentioned in this chapter included:

1. the difficulty of showing that tenure stabilizes the profession, increases its drawing power or increases teacher interest in professional improvement;
2. "local boards rather commonly drop probationers to prevent their gaining permanent status."<sup>12</sup> The probation period was a trial rather than a training period.
3. Unsatisfactory teachers were frequently transferred or asked to resign so that dismissal was unnecessary.

Scott summarizes the cases of appeal from 1906 to 1931. These appeals were either to the Commission of Education, the State Board of Education, the Supreme Court or the Appellate Court. Eight of the thirteen states that had tenure had no provision for appeal.

There were 137 cases appealed during these years. Of these, New Jersey (the oldest state to have tenure) had 73 cases. The most cases appealed in one year was eight in New Jersey in 1914. But the average appeals per year in each state was less than one. Those states which provide for appeal in addition to their court systems had nearly all such cases.<sup>13</sup>

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<sup>12</sup>Ibid., p. 68. (It's well to bear in mind that these were depression days. Unlike today there was a teacher surplus because higher paying job opportunities had been closed to large numbers of college trained people.)

<sup>13</sup>Ibid., see both pages 74 and 46.

eleven are shown as non-tenure states. (The 52 "states" include the District of Columbia and Puerto Rico.)

Generally, the tenure states are the most populous states. It is noteworthy that North Carolina, now a non-tenure state, repealed continuing contract status for teachers in 1955. South Carolina did likewise the same year.<sup>18</sup> Seven of the non-tenure states are in the South, two in New England and two in the Rocky Mountain area.

Thirteen of the twenty-one tenure states give some right of appeal. Eight states provide for no appeal from a local board's decision.<sup>19</sup> A court review of the local board's decision may be possible in some circumstances. Only three states provide tenure commissions. These are Oregon (in each district), Michigan (a State Tenure Commission) and New York (for village superintendencies 4,500 population or over).

This lack of the right of appeal was listed by Scott as one of the most serious defects of tenure law back in 1934. At that time eight of twelve tenure states had no provision for appeal, compared to eight out of twenty-one in 1963. The ratio had changed from two out of three to about one in three among tenure states which have no appeal provisions.

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<sup>18</sup>Ibid., pp. 39 and 41.

<sup>19</sup>These states are Indiana, Kansas, Louisiana, Maryland, Minnesota, Missouri, Nebraska, and Wisconsin.

A third book was produced by the National Education Association.<sup>20</sup> This is a short complete review of tenure and the application of laws to probation, dismissal of probationary teachers, tenure rights, tenure procedures and appeals from school board decisions. Citations of the laws for each state are listed plus citations of tenure cases from 1946 to 1956.

A good summary statement of the arguments for tenure is given and here paraphrased:

Tenure builds morale and security, gives freedom from petty reprisal, releases full energy, provides for orderly dismissal, does not create a protection for the incompetent, increases freedom to participate in public affairs and blunts punitive movements due to vacillating public opinion and resentments of special groups.<sup>21</sup>

Establishing tenure commissions is described as a short-term movement with several being eliminated in the past few years and no new ones established.<sup>22</sup> The argument for tenure commissions or appeals to other higher authority is compelling, however. "The purpose of providing appeal to higher educational authorities is to expedite decisions. Court actions are expensive. There is the added advantage of placing teacher tenure in the hands of professionally trained rather

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<sup>20</sup>Trends in Teacher Tenure through Legislation and Court Decisions, National Education Association, Washington, D. C. , 1957, 48 pp.

<sup>21</sup>Ibid., p. 43.

<sup>22</sup>Ibid., p. 37. Michigan has the only state-wide Tenure Commission.

than legally trained persons."<sup>23</sup>

A reminder is given that some states have withdrawn tenure rights and that the tenure law can generally be altered by legislative action in rather decisive ways. The acts of one legislature do not bind the next.<sup>24</sup>

### Appeals

The Department of Public Instruction of the State of Pennsylvania provides a bulletin which is a kind of gauge against which appeals can be measured. This bulletin is a complete listing of opinions (#1-83) of the State Superintendent arising through appeals from decisions of local boards of school directors.<sup>25</sup> Forty-seven decisions were in favor of teachers, twenty were in favor of boards of school directors. Fifteen were cases of no jurisdiction and one appeal was dismissed because of late filing.<sup>26</sup>

Fifty-five of the above cases were appealed from the State Superintendent's decision to either the Supreme Court, Superior Court or Court of Common Pleas. The State Superintendent's decision was

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<sup>23</sup>Ibid., p. 37.

<sup>24</sup>Ibid., p. 9.

<sup>25</sup>Opinions of the Superintendent of Public Instruction Under the Teachers' Tenure Law, Bulletin 20, Commonwealth of Pennsylvania, Department of Public Instruction, Harrisburg, Pennsylvania, 1952.

<sup>26</sup>Ibid., p. 23.

upheld 26 times and reversed 17. The rest of the cases had various other dispositions.<sup>27</sup>

This pattern in Pennsylvania is not unlike that shown by Scott prior to 1934. Excluding New Jersey, with 73 total appeals at that time, most states which had provisions for appeals had experienced fewer than three appeals per year. Michigan, in the period from 1937 to 1959 had 27 teacher appeals to the three-member commission. Of these, 14 were completed. Twelve were in favor of teachers, two in favor of boards of education. One teacher and eleven boards appealed to the Supreme Court. The Tenure Commission was upheld ten times and the eleventh case thrown out when the board granted the teacher tenure.<sup>28</sup>

Rosati also gave a distribution of the appeal cases. Thirteen appeals were from one district, three appeals were from another district, three more appeals were from another district, two from a fourth district and one from each of five other districts. One case, involving the University of Michigan, was dismissed for lack of jurisdiction by the Tenure Commission.<sup>29</sup>

Procedures are a major problem in tenure protection as well as in the operation of dismissal procedures. A booklet issued by the

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<sup>27</sup>Ibid., p. 24.

<sup>28</sup>Rosati, J. A., "Results of the Tenure Law," Michigan Education Association Journal, Vol. 36, p. 265, February, 1959. (Mr. Rosati was chairman of the tenure commission at that time.)

<sup>29</sup>Ibid., p. 265.



National Education Association clarifies the "Essentials of a Proper School Board Hearing."

1. Adequate notice and statement of charges.
2. Presence of counsel.
3. Testimony of witnesses under oath or affirmation.
4. Right to subpoena witnesses.
5. Restriction of evidence to charges.
6. Right of argument on evidence and law.
7. Stenographic transcript of evidence and argument.
8. Consideration of evidence and argument by the entire school board.
9. Vote of majority of entire school board.<sup>30</sup>

Peter R. Ellis wrote a review of Supreme Court cases and Attorney General's opinion on tenure in Michigan.<sup>31</sup> The significant decisions of the Supreme Court are listed:

1. Administrators are denied tenure as administrators by a 1941 amendment to the act. (Strut vs. Ferndale Board of Education, Michigan Reports, Vol. 361, p. 82.)

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<sup>30</sup>Essentials of a Proper School Board Hearing, National Education Association, Committee on Tenure and Academic Freedom, Washington, D. C., 1945.

<sup>31</sup>Ellis, Peter R., "A Review of Supreme Court Cases and Attorney General's Opinions on Tenure." An unpublished term paper for Dr. Herbert Rudman, College of Education, Michigan State University, East Lansing, Michigan. (no date).

2. A policy requiring all teachers to have a three-year probation, instead of the normal two-year period as provided by law, was held to be illegal. (Wilson vs. Flint, Michigan Reports, Vol. 361, p. 691.)
3. The right of the Tenure Commission to hear a case de novo (receive new evidence) was established by the Rehberg case. (Rehberg vs. Melvindale School District, Michigan Reports, Vol. 330, p. 541.)
4. In the case of Wilson vs. the Board of Education (District No. 1 fractional) of Royal Oak Township, the principle was established that the Court should not decide questions of fact brought before the Tenure Commission, but only whether adequate proof was present to substantiate a decision.<sup>32</sup>

Roudi gives us a summary of attorney general's opinions on Michigan Tenure (here greatly condensed).<sup>33</sup>

1. Tenure hearing costs may not be paid by the Department of Public Instruction. (No. 4959, August 13, 1946)
2. Contracts should be issued to tenure teachers. (June 14, 1940, unnumbered)
3. After two years probation, a unanimous vote of the board is needed to refuse tenure.<sup>34</sup> (No. 782, May 26, 1948)
4. A simple majority of a board may require a third year of probation. (No. 782, May 26, 1948)

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<sup>32</sup>Ibid., p. 4.

<sup>33</sup>Roudi, Ralph C., "Sources of Tenure Information," Michigan School Board Journal, Vol. XI, No. 12, February, 1965, pp. 10-13. (Mr. Roudi, superintendent of the Carson School District at Romulus, Michigan, is currently preparing a dissertation at the University of Michigan on the Tenure Commission in Michigan.)

<sup>34</sup>Teachers with tenure may be dismissed by a simple majority now. A unanimous vote was required only during the implementation stage of state-wide tenure. Teachers with less than two years probation have their destiny controlled by a simple majority of the board of education. (Interpretive comment by J. E. M.)

5. The Tenure Commission does not lose jurisdiction of a case once an appeal is filed although more than 60 days elapse before a hearing. (No. 987, June 20, 1949)
6. The probationary period may begin during a school year (like in February, at the time the teacher actually begins work). It ends two years from that date. (No. 1126, May 17, 1950)
7. Costs for a Tenure Commission stenographer is a proper charge against the general fund of the state. (No. 2406, January 13, 1956)
8. Costs of a Tenure Commission hearing may not be assessed to either party. (No. 2406, January 13, 1956)
9. The Tenure Commission must return the record of an appeal to a circuit court to which further appeal is made. (No. 2406, January 13, 1956)
10. A board of education must notify the Tenure Commission in writing when placing a teacher on third-year probation. (No. 2992, August 12, 1957)
11. The Tenure Commission should not interpret law or render opinions except during a case of appeal. (No. 2987, May 23, 1957)
12. A first-year probationer, who is not notified 60 days prior to the close of school that his services will be discontinued, is entitled to another year of employment. (No. 3297, October 15, 1958)
13. A board of education must give a good cause when dismissing a teacher by giving the required 60-day notice prior to the close of school. (No. 3297, October 15, 1958)
14. The entire Tenure Commission need not be present during all phases of a hearing. (No. 3201, January 31, 1959)
15. A teacher who intends to file an appeal to the Tenure Commission must do so within 30 days of the decision by the board of education. (No. 3372, June 9, 1959)

16. Probationary teachers have the right of appeal to the Tenure Commission. (No. 3372, June 9, 1959. NOTE--this seems no longer to be true by a change in the Act in 1963).<sup>35</sup>
17. A teacher's right of appeal is not restricted to a decision after a formal hearing of a board of education. (No. 3372, June 9, 1959)
18. Where a private hearing has been requested, the content of the hearing at the board level and Tenure Commission level is restricted until a decision is final and no further appeal is possible. (No. 3296, September 1, 1959)
19. A teacher may request a private hearing by the Tenure Commission. (No. 3296, September 1, 1959)
20. A board may not require three years of probation as a matter of policy. (No. 3467, December 19, 1960)
21. A teacher returning to a district which adopted tenure while the teacher was not employed by the district, cannot claim tenure status. (No. 3511, January 30, 1961)
22. A tenure teacher returning from a leave of absence can take a position for which he is qualified even if it requires a probationer to be released. (No. 3609, February 7, 1962)
23. A tenure teacher returning from a leave of absence has the same rights as if he had been continuously at work--he can be transferred, the same as all tenure teachers into a position he is qualified to fill. (No. 3609, February 7, 1962)

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<sup>35</sup>The case of Young vs. Hazel Park (decided in June, 1965) by the Tenure Commission does not clear up this problem of probationer appeals. Young was deemed a tenure teacher because of improper notification and was unanimously upheld by the Commission by this line of reasoning--that is--he had served the required probation and not being properly notified, was now a tenure teacher.

Rosati provides us with a worthy summary of the Michigan Tenure Law. "The tenure law provides for demotion and dismissal only for reasonable and just cause, a term not defined by any court of last resort as applied to a tenure case. This wording provides school boards with greater latitude than any specifically enumerated causes. In any event, the burden of proof remains with school boards."<sup>36</sup> Under a true tenure law in any state, the principle that a tenure teacher is an adequate teacher until proven otherwise should be understood.

#### The Status of Teachers in Other Nations

A review of tenure literature would not be complete without reference to teacher tenure in other countries. Scott summarizes his study of American tenure practices compared with European with a series of six statements paraphrased here:

1. European countries generally require greater training for tenure status, especially at the secondary teaching level.
2. Selection of teachers is done by central authorities in Europe while it is locally done in the United States. Competitive examinations are used in Europe although no American states do this.
3. Probation requirements are similar, but gaining tenure status in Europe is often more difficult, because of the devise of temporary or non-permanent positions except in England and Wales.

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<sup>36</sup>Rosati, op. cit., p. 265.

4. Transfers between systems in Europe is somewhat easier because of the administrative organization.
5. A European teacher is often a civil servant and may have more prestige. Penalty scales for breaches of discipline are more elaborate in European nations.
6. All countries of Europe have standardized salary schedules while only seven states plus the District of Columbia have such protection here. Pension regulations are found in all European systems while only seven states plus D. C. have pensions in the United States.<sup>37</sup>

Further information on the comparative tenure status of American and foreign teachers is found in a more recent book which indicates that foreign teachers enjoy greater tenure security than do U. S. teachers.<sup>38</sup> "The American teacher does not have the absolute security of tenure which the French or Australian teacher enjoys."<sup>39</sup> "The English teacher has security of tenure, a reasonably good salary relative to the cost of living in the country, and the prospect of a satisfactory pension when he retires."<sup>40</sup>

In the Soviet Union "Dismissal of a teacher, for other than political reasons, can only come after a special commission, half of whose members are selected by the administration and half by the union

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<sup>37</sup>Scott, op. cit., pp. 137-138. (This is the status about 1930.)

<sup>38</sup>Cramer, John F. and Browne, George S., Contemporary Education, A Comparative Study of National Systems, Harcourt, Brace and Co., New York, 1956, p. 232.

<sup>39</sup>Ibid., p. 232.

<sup>40</sup>Ibid., p. 270.

more per cent of American teachers have varying forms of tenure protection. Every state has a different law requiring detailed study by anyone expecting to understand its application.

Many of the state laws are described as inadequate by a reasonable definition of tenure. Provisions for appeal from school board decisions were considered inadequate in 1934. In 1963, of the twenty-one states having tenure, only thirteen provide for appeal. Only three states provide for tenure commissions with Michigan having the only such commission with a state-wide jurisdiction.

Among those states providing for appeal, the number of cases appealed is small, generally averaging about three cases per year.

A review of appeal cases in Pennsylvania and Michigan indicates that the application of the law by school boards requires careful attention to detail. The burden of pruning the profession of undesirables falls upon the boards of education through their school administrators.

Most incompetents are probably weeded out without resort to the full application of tenure law. Both the state and national teachers' organizations profess (with sincerity and wisdom) that incompetents must not be allowed to teach. It is apparent that few cases of appeal get to the argument of the competency of the teacher, but often are related to the application of specific provisions of tenure law.

On the Western European scene, tenure protection is stronger than in the United States. These countries have a central administration of schools and a civil service heritage. Even in Russia, except

for the ominous "political reasons," teachers are relatively secure.

Some research reported by Weber indicates that tenure for teachers has few of the negative results attributed to it by those opposing tenure. Careful screening and coaching of probationers, and a good school administration working closely with the teaching staff is recommended as sufficient to insure adequate teachers.<sup>46</sup>

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<sup>46</sup>Weber, op. cit., Chapter 8.



## CHAPTER III

### DESIGN OF THE STUDY

#### Introduction: Justification of Selected Respondents and Sizes of

#### Schools

In Chapter I, it was made explicit that the purpose of this study was to examine the impact of state-wide mandatory tenure in Michigan. (See Chapter I, Statement of the Problem.) The design of this study requires that the significant reference groups be surveyed. Their understanding of and feelings about tenure will be significant factors in the functioning of the tenure law. The eight reference groups described in the next section (under Sources and Questionnaires) are a cross section of the educational groups most affected by tenure.

Sixty schools were selected, from which the eight reference groups responded. The schools were randomly drawn from stratified groups. The stratified groups represent school sizes which are arbitrary, but designed to identify small, middle-sized and large schools. Conant helps define small schools by saying that schools with a graduating class of less than one hundred are too small to be comprehensive high schools.<sup>1</sup> A school of this size would have about

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<sup>1</sup>Conant, James B., *The American High School Today*, McGraw-Hill Book Company, Inc., 330 West 42nd Street, New York 36, New York, p. 38.

seventy teachers depending on the drop-out rate and whether tuition students were involved. Small is defined in this study as a school with less than one hundred teachers. A student body in proportion to that number of teachers would generally have less than 2,500 students.

Large schools were defined as those with more than two hundred teachers. These schools would enroll 5,000 students or more. The graduating class would normally be well over 200 students. Middle-sized schools were then described as those with more than one hundred but less than two hundred teachers.<sup>2</sup>

### Sources and Questionnaires

Eight reference groups were surveyed by Questionnaire I shown in Appendix A. These eight groups are: Elementary probationary teachers, elementary tenure teachers, elementary principals, secondary tenure teachers, secondary principals, superintendents and school board secretaries. These eight groups represent a cross section of public school people most interested in teacher tenure.

The eight groups were equally drawn, one each, from sixty school districts randomly chosen from the three sizes of schools. The three sizes of schools again are: 1. schools with less than 100 teachers,

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<sup>2</sup>See Appendix C for a summary of the schools selected.

2. schools with 101 to 200 teachers, and 3. schools with over 200 teachers.

Each of the 3 sizes is represented by 20 schools, with one respondent for each reference group from each school. Overall, then, there are 20 schools times 8 reference groups, or 160 possible responses to each question for each strata of school size (480 possible responses to each question from all 3 sizes). Since there are 8 questions in the questionnaire, the possible responses would total  $8 \times 480$  or 3840 responses.

There are 20 possible responses from each of the eight reference groups for each strata of schools; and 60 possible responses from each reference groups for all 3 strata of schools

The tabulations for these questions are in Chapter IV.

### The Justification of Tenure Questionnaire I

A thoughtful study of the questions from Questionnaire I will reveal several things. The questionnaire is brief enough to elicit responses. The questions themselves were tested through twenty-four interviews and are comprehensible. There are two open-ended questions (seven and eight) which allows for expression that might be omitted in the first six questions. The first six questions get at the fundamentals that are involved in any discussion of the need for and the effect of tenure.

### Distribution of Questionnaires and Sampling

The distribution of Questionnaire I was handled by writing a cover letter (see Appendix A) to the 60 superintendents whose schools had been selected. The superintendents were asked to distribute six of the questionnaires with cover letters (see Appendix A) which explained the general nature of this study to the six appropriate reference individuals. The superintendent was instructed to give each questionnaire to the teacher, or principal, who would fall first alphabetically in the category listed. This latter provision was to try to rule out personal selection and thus maintain a more truly representative answer. The same questionnaire was mailed directly to the 60 school board secretaries.<sup>3</sup> The superintendent was asked to respond too, making the total of eight responses from each district.

The 60 schools were drawn from the Michigan Education Association Teacher Salary Schedule Study 1964-1965.<sup>4</sup> This listing of 574 schools "represents about 95% of the estimated public school teachers

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<sup>3</sup>The Michigan Education Directory and Buyers Guide, 1964-65. 109 1/2 Washington Avenue, Lansing 16, Michigan, was used to get these names and addresses.

<sup>4</sup>Michigan Education Association Teacher Salary Schedule Study 1964-1965, Michigan Education Association, Box 673, East Lansing, Michigan.

in Michigan in 1964-65."<sup>5</sup> This list of 574 schools shows the number of teachers in each district. Excluding Detroit, the 59 optional tenure districts (districts which had tenure under the 1937 optional tenure law) and the Upper Peninsula, three separate lists of schools were made with the number of teachers as criterion. There were 363 schools with less than 100 teachers; there were 67 schools with more than 200 teachers; and there were 144 schools with between 100 and 200 teachers. From these three lists random number tables were used to select 20 schools in each category. This procedure helps guarantee random selection.

#### Assumption

An assumption made in using three sizes of schools was that there might be a difference in feeling among the reference groups in regard to tenure based upon school size. Generally, the schools which had adopted tenure under the optional law of 1937 had been large. Perhaps this was just because larger number of teachers were more likely to organize and use their power. There was also a notion that small schools had a larger teacher turnover which might somehow be related to arbitrary board action. The responses to Questionnaire I may reveal differences in attitude by size of school.

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<sup>5</sup>Ibid., p. viii.

### A Survey of Tenure Districts

Fifty-nine schools had had experience with tenure under the 1937 optional tenure law. The superintendent of each of these schools was sent a brief questionnaire (see Appendix B). Two questions were asked of these superintendents: 1. Has the 1964 (mandatory law) Teacher Tenure Act made any significant changes for your district? If yes, describe briefly. 2. Has tenure had any affect on the quality of teaching performance in your district? If yes, is it a higher or a lower performance for the staff as a whole? This questionnaire concluded with a request for "any further comments."

This survey gives a professional opinion regarding the fundamental philosophical question of "security" versus "an entrenched profession" in relation to quality of service.

### Cases Coming Before the Tenure Commission

During the period since the beginning of optional tenure, an average of less than two cases per year were appealed to the tenure commission. The number and type of these cases are compared with the first year of experience under the 1964 mandatory tenure law.

### Interviews with the Tenure Commissioners and Others

The five tenure commissioners were asked to respond to the following general questions: What aspects of the present tenure law are ambiguous, are giving trouble or are likely to cause problems in the future?

Deputy Superintendent of Public Instruction, Alexander Kloster,<sup>6</sup> was asked to answer the above question. He is the secretary of the State Tenure Commission acting for the ex-officio secretary--the State Superintendent of Public Instruction. The five tenure commissioners are described in Chapter IV with their responses.

In addition, staff members of the Michigan Education Association were asked to respond to the same question asked of the tenure commissioners.

### Second Questionnaire to School Superintendents

The last phase of the data gathering for the study was a brief questionnaire mailed to the same 60 school superintendents whose schools were selected for Questionnaire I. This questionnaire was mailed in late June, 1965, because the tenure act provides that teachers may resign prior to 60 days before September 1 of the ensuing school year. These superintendents were asked to supply the following information:<sup>7</sup>

1. How many teachers were placed on a third year probation?
2. How many first-year probationers were not offered contracts?
3. How many second-year probationers were not offered contracts?

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<sup>6</sup>Names Acting Superintendent of Public Instruction after this interview.

<sup>7</sup>See Appendix A.

4. How many tenure teachers were dismissed?
5. How many tenure teachers were encouraged to leave and resigned?
6. How many teachers gave written notice of the intention not to return 60 days prior to September 1? Was this a problem?
7. Any suggestions or comments?

This data is presented in tabular form in Chapter IV. This information, at the conclusion of the first school year under mandatory tenure, gives vital information needed to see how the law is functioning.

### Summary

This study proposes to find out how the important reference groups of the state of Michigan view teacher tenure and what improvements, if any, need to be made in the law. The question of whether school size influences attitudes was also to be explored. The answers to these questions are to be found by five different inquiries: Questionnaire I was given to 480 individuals representing 60 school districts. The 60 school districts were chosen as a stratified random sample with twenty districts in each of three size categories. One category represented public schools of less than 100 teachers, one represented schools with between 100 and 200 teachers, and one represented schools with over 200 teachers. Eight individuals representing an entire cross section of staff members including the school board secretary of each school, were to fill out the questionnaire. Except for superintendents and school board secretaries, and in some cases principals, there was



an element of randomness in the selection of six of the respondents based upon alphabetical position rather than personal selection .<sup>8</sup> These eight individuals were listed as, elementary probationary teachers, elementary tenure teacher, elementary principal, secondary probationary teacher, secondary tenure teacher, secondary principal, superintendent and school board secretary.

The other four methods of inquiry may be described briefly as:

1. A brief questionnaire to those 59 superintendents of schools which had tenure under the local option law to test the effect of tenure (in their opinion) on the quality of teaching performance; 2. Interviews with the five tenure commissioners and their ex-officio secretary plus two experts from the Michigan Education Association and the Executive Director of the Michigan School Board Association; 3. A review of cases coming before the tenure commission after the advent of the mandatory tenure law; and 4. A second questionnaire, Questionnaire III, to the 60 superintendents of schools selected to answer Questionnaire I.<sup>9</sup> This questionnaire was to find out how many probationary and tenure teachers are being dismissed and if resignations of teachers are a serious problem.

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<sup>8</sup>Good, Carter V., and Scates, Douglas E., Methods of Research, Appleton-Century-Croft, New York, 1954, p. 601. (They refer to this as systematic sampling.)

<sup>9</sup>See Appendix A for Questionnaire III.

The next section, Chapter IV, will be used to give an accounting of these proposed inquiries.

## CHAPTER IV

### THE ANALYSIS OF RESULTS

#### Introduction

To recapitulate briefly, this chapter will describe the results of five inquiries designed to test assumptions or to elicit information about the functioning of tenure in Michigan.

1. Questionnaire I contained eight questions for 60 members of eight respondent groups ranging from school board secretaries to first year probationary teachers in three sizes of schools. This questionnaire was tested by 24 interviews, three from each type respondent group.
2. Questionnaire II was sent to all 59 superintendents of schools which had experienced local-option tenure prior to the advent of state mandatory tenure under the 1964 law. The effect of tenure on these veteran tenure groups was sought.
3. Interviews with the five Tenure Commission members and their ex-officio secretary, the State Superintendent of Public Instruction are paraphrased. Interviews with two experienced men from the Michigan Education Association regarding problems real or potential are described. The Executive Director of the Michigan Association of School Boards was also queried and his response is presented.

4. Then, at the conclusion of the first year of mandatory tenure, the 60 superintendents, in the original stratified random sample of schools, were sent Questionnaire III. The answers to this query will illuminate the area of resignations and dismissals of teachers during the first year of state-wide tenure.
5. The last investigation will compare cases coming before the Tenure Commission during the 1964-65 school year (under mandatory tenure) with previous years under the 1937 local option law.

#### Questionnaire I: Interviews

Twenty-four interviews were held to test the questions in Questionnaire I. For convenience these interviews were held in nearby schools. Three individuals representing each reference group (such as board secretaries and elementary probationary teachers) were interviewed prior to mailing the 480 questionnaires. The results are summarized in Table 1, page 47. This sampling indicated that the questionnaire would work. The results of the sampling also follow the general pattern from the mailed sample with 335 returns.

The attitude of the total group of 24 individuals was favorable toward tenure. Comparisons by school size or within reference groups was not useful with a sample of this size.



Table 1: A summary of twenty-four interviews to test Questionnaire I

Respondents	Questions	Answers			
		a	b	c	d
8 reference groups 3 in each group 24 respondents	1. Supervision of teachers is (a) better (b) no change (c) no opinion (d) worse.	8	11	4	1
	2. Inadequate teachers are (a) more easily eliminated (b) no change (c) no opinion (d) more difficult to eliminate.	1	9	3	11
	3. Teachers are (a) more secure (b) no change (c) no opinion (d) less secure	18	4	1	1
	4. The teaching profession is (a) upgraded (b) no change (c) no opinion (d) downgraded.	12	6	1	5
School Board Secretaries	5. How many teachers are on your staff that you feel should not be teaching? Answers: 0, <sup>a</sup> 3, 0, some <sup>b</sup> , 0, 1, 1, 0, 2, 0, 0, <sup>a</sup> 1, 0, 0, 2, 0, 0, 1 or 2 <sup>b</sup> , 1, 0, 3.	average	mean	mode	
	6. How many cases of unjustified teacher dismissals can you recall during your entire career in education? Answers: 0, 1, 0, 0, 1, 0, 1, 1, 2, 5, 0, 2, 0, 0, 0, 0, 0, 0, 3, 1, 0, 0.	0-3	.72	0	0
	7. If you see defects in the present law please describe briefly. Twelve gave no answer while twelve did answer. Four said teachers are over-protected; four said that the law made hiring a problem because of the late date for resigning. Four said the area of contracts and resignations is unclear. One felt that the unanimous seven-member decision of a board to put a teacher on third-year probation was unreasonable--a 100% turnout at board meeting is getting to be too difficult. One said the burden of policing the profession is on the administration.	0-5	.71	0	0
Elementary Principals	8. Write a comment or two that reflects your views on tenure.	no comment	neutral	negative	positive
		0	4	7	13

<sup>a</sup>No answer

<sup>b</sup>Not used in calculations

The Returns of Questionnaire I (To 60 schools which were new to tenure)

Sixty questionnaires were sent to sixty school board secretaries. This was also true for each of seven educator respondent groups. The lowest return was from school board secretaries of schools with less than 100 teachers. Only nine of twenty responded for a low of forty-five per cent. These questionnaires were sent via first class mail directly to board secretaries. None were returned as addressed incorrectly or unknown, so it is assumed that all were received. The highest return was from middle-sized schools. There were eighteen returns from the twenty questionnaires sent to both superintendents and secondary principals for a ninety per cent return in these two classes of respondents. Table 2, page 49, is a chart of the returns.

Table 2 shows that small schools returned sixty-three per cent, middle-sized schools returned seventy-five per cent and large schools returned seventy-three per cent.

Four hundred eighty questionnaires (Questionnaire I) were sent. Three hundred thirty-five were returned for an over-all return of seventy per cent.

In analyzing Questionnaire I, it is well to keep in mind, that the respondents were having their first experience with tenure. It should also be kept in mind that each category of respondent has a different perspective. For instance, the word "staff" would mean a larger group of teachers to a superintendent or board member than it would to an elementary principal.

Table 2: A summary of the number of returns of Questionnaire I

	Small Schools (less than 100 teachers)			Miccle-sized Schools (100-200 teachers)			Large Schools (more than 200 teachers)			Totals (for each type respondent)		
	Questionnaires			Questionnaires			Questionnaires			Questionnaires		
	sent	returned	% returned	sent	returned	% returned	sent	returned	% returned	sent	returned	% returned
School Board Secretaries	20	9	45	20	10	50	20	13	65	60	32	53
Superintendents	20	16	80	20	18	90	20	15	75	60	49	82
Secondary Principals	20	15	75	20	18	90	20	16	80	60	49	82
Secondary Tenure Teachers	20	12	60	20	17	85	20	13	65	60	42	70
Secondary Probationary Teachers	20	12	60	20	14	70	20	14	70	60	40	67
Elementary Principals	20	12	60	20	17	85	20	15	75	60	44	73
Elementary Tenure Teachers	20	13	65	20	13	65	20	16	80	60	42	70
Elementary Probationary Teachers	20	11	55	20	12	60	20	14	70	60	37	62
Totals for each size school	160	100	63	160	119	75	160	116	73	480	335	70



Question One of Questionnaire I: Supervision of teachers is

(a) better (b) no change (c) no opinion (d) worse.

Table 3, page 51, shows the answers to the question of supervision of teachers. The pattern shows clearly that all groups believed that supervision was either better or had not changed. Very few (six) thought it was worse and twenty had no opinion.

Group Comparisons

The pressure of supervision should show most clearly upon probationary teachers. Their answers do not reveal an indication of this pressure.

The tenure teachers are the groups which consistently and by the largest percentage felt that supervision had shown "no change." Only twenty-two elementary and secondary tenure teachers felt supervision was better compared to sixty who answered "no change." Note, too, that only one thought supervision to be worse.

Elementary and secondary principals, upon whom the burden of supervising would fall most heavily, were evenly divided into two groups. About half of each group thought supervision was better; the other half said no change.

Comparisons by School Size

Small schools indicated a decided tendency to answer "no change" in supervision. Seven of the respondent groups in small schools (all

Table 3: Summary of Question 1, Questionnaire I

Under tenure, supervision of teachers is (a) better (b) no change (c) no opinion (d) worse.

	Small Schools less than 100 teachers				Middle-sized Schools 100-200 teachers				Large Schools over 200 teachers				Totals			
	Better	No change	No opinion	Worse	Better	No change	No opinion	Worse	Better	No change	No opinion	Worse	Better	No change	No opinion	Worse
Board Secretaries	3	5	1	0	7	2	0	1	7	4	1	1	17	11	2	2
Superintendents	8	8	0	0	10	8	0	0	8	6	0	1	26	22	0	1
Secondary Principals	4	11	0	0	10	8	0	0	8	7	0 <sup>a</sup>	0	22	26	0	0
Secondary Tenure Teachers	2	10	0	0	5	11	1	0	5	7	0	1	12	28	1	1
Secondary Probationers	3	6	3	0	5	5	3	1	7	5	2	0	15	16	8	1
Elementary Principals	4	8	0	0	9* plus 1	6	0	1	8	7	0	0	21	21	0	1
Elementary Tenure Teachers	4	9	0	0	3	10	0	0	3	13	0	0	10	32	0	0
Elementary Probationers	2	6	3	0	6	3	3	0	6	5	3	0	14	14	9	0
TOTALS	30	63	7	0	55	53	7	3	52	54	6	3	137	170	20	6

\*One respondent said "increased" supervision.

<sup>a</sup>One no answer.

except superintendents) show "no change" as their predominant choice of answers. The total shows that twice as many felt "no change" to be true as compared to "better." Middle size and large schools were nearly evenly divided between the two answers ("better" vs. "no change"). "Worse" and "no opinion" drew few responses.

Question Two of Questionnaire I: Inadequate teachers are (a) more easily eliminated (b) no change (c) no opinion (d) more difficult to eliminate.

Table 4, page 53, shows the answers relating the opinions of the eight reference groups regarding the question of eliminating inadequate teachers. The over-all pattern of answers indicated that under mandatory tenure dismissing teachers is "more difficult" (111 responses) followed by "no change" (100 responses). In third place is the answer "more easily eliminated" (sixty-eight responses) followed by "no opinion" (forty-eight responses). The pattern is fairly mixed then, but "more difficult" and "no change" are clearly the most prevalent answers.

#### Group Comparisons

Only two groups failed to follow the over-all pattern of answers listed above. Secondary and elementary probationary teachers show a slight tendency to answer that the elimination of teachers is easier under tenure. Even in those two groups, however, equal numbers of respondents answered "more difficult."

Table 4: Summary of Question 2, Questionnaire I

Inadequate teachers are (a) more easily eliminated (b) no change (c) no opinion (d) more difficult to eliminate

	Small Schools less than 100 teachers				Middle-sized Schools 100-200 teachers				Large Schools over 200 teachers				Totals			
	Easier	No change	No opinion	More difficult	Easier	No change	No opinion	More difficult	Easier	No change	No opinion	More difficult	Easier	No change	No opinion	More difficult
Board Secretaries	2	2	2	3	1*	3	2	3	2*	3	0*	6	5	8	4	12
Superintendents	1	6	1	8	1*	7	2	7	5	4	0	6	7	17	3	21
Secondary Principals	3	2	3	7	3*	3	4	7	3	7	2	4	9	12	9	18
Secondary Tenure Teachers	1	5	1	5	6	6	4	1	1	8	2	2	8	19	7	8
Secondary Probationers	0	1	5	6	8	3	1	2	4	4	1	5	12	8	7	13
Elementary Principals	3*	4	1	3	3	5	1	8	2	6	2 <sup>a</sup>	4	8	15	4	15
Elementary Tenure Teachers	2	5	1	5	4	1	3	5	2	8	1 <sup>a</sup>	4	8	14	5	14
Elementary Probationers	2	5	2	2	4	1	3	4	5	1	4	4	11	7	9	10
TOTALS	14	30	16	39	30	29	20	37	24	41	12	35	68	100	48	111

\*Five respondents mention that this question depends on whether the teacher is on tenure. The question refers to all teachers.

<sup>a</sup>One no answer.

### Comparisons by School Size

The smallest number of respondents in each size of school answered "no opinion."

Small schools showed the greatest variation between the answers "easier" (fourteen) and "more difficult" (thirty-nine), although this followed the general pattern of the other two sizes of schools. Thus, small school respondents indicated that getting rid of inadequate teachers was more difficult. (This may be related to the fact that in smaller schools, people seem to know the total situation or parts thereof in a more personal way.)

Question Three of Questionnaire I: Teachers are (a) more secure (b) no change (c) no opinion (d) less secure.

Table 5, page 55, summarizes the returns. Over-all, 176 responses indicate that teachers are now "more secure" followed by 120 responses indicating "no change." Small numbers of respondents indicated "no opinion" (twenty-five) and "less secure" (eleven).

### Group Comparisons

In every group except superintendents, "more secure" was the prevailing answer. Among superintendents, a slightly larger number of responses (twenty-five) indicated "no change" rather than "more secure" (twenty). Principals and superintendents probably view teachers as being secure while teachers are not so sure.

Table 5: Summary of Question 3, Questionnaire I

Teachers are (a) more secure (b) no change (c) no opinion (d) less secure.

	Small Schools less than 100 teachers				Middle-sized Schools 100-200 teachers				Large Schools over 200 teachers				Totals			
	More secure	No change	No opinion	Less secure	More secure	No change	No opinion	Less secure	More secure	No change	No opinion	Less secure	More secure	No change	No opinion	Less secure
Board Secretaries	8	1	0	0	6	3	1	0	6	5	2	0	20	9	3	0
Superintendents	8	8	0	0	7	9	1	1	5	8	2	0	20	25	3	1
Secondary Principals	7	8	0	1	10	5	2	1	5	8	3	0	22	21	5	2
Secondary Tenure Teachers	8	3	1	0	10	4	0	3	5	7	0 <sup>a</sup>	0	23	14	1	3
Secondary Probationers	5	3	3	1*	5	8	1	0	9	3	1	1	19	14	5	2
Elementary Principals	8	3	0 <sup>a</sup>	0	10	7	0	0	6	8	1	0	24	18	1	0
Elementary Tenure Teachers	8	3	1 <sup>a</sup>	0	10	3	0	0	6	7	1	2*	24	13	2	2
Elementary Probationers	8	1	2	0	9	1	2	0	7	4	1 <sup>a</sup>	1	24	6	5	1
TOTALS	60	30	7	2	67	40	7	5	49	50	11	4	176	120	25	11

\*Two respondents noted that probationers would be less secure.

<sup>a</sup>One no answer.

### Comparisons by School Size

Both small and middle-sized schools indicated a definite tendency to answer "more secure." In large schools, however, "no change" was practically equal in responses with "more secure" (forty-nine and fifty). (Large schools probably already had many characteristics of tenure in their board policies or in practice.)

Question Four of Questionnaire I: The teaching profession is (a) upgraded (b) no change (c) no opinion (d) downgraded.

One hundred thirty-two respondents felt that the profession was "upgraded" by tenure. A like number (133) replied "no change." Thirty-eight had "no opinion" and thirty answered "downgraded." Table 6, page 57, summarizes question four.

### Group Comparisons

Superintendents showed the greatest range of difference between the two prevailing replies. Only nine felt the profession was "upgraded" compared to twenty-nine who replied "no change." In reverse, the elementary probationers showed the greatest range of difference with six answering "no change" and twenty-one indicating "upgraded." Board members, too, showed a reluctance to answer "upgraded."

No large number in any group indicated that the profession was "downgraded." Board members and superintendents were slightly higher in this response than the other groups.





Table 6: Summary of Question 4, Questionnaire I

The teaching profession is (a) upgraded (b) no change (c) no opinion (d) downgraded.

	Small Schools less than 100 teachers				Middle-sized Schools 100-200 teachers				Large Schools over 200 teachers				Totals			
	Upgraded	No change	No opinion	Downgraded	Upgraded	No change	No opinion	Downgraded	Upgraded	No change	No opinion	Downgraded	Upgraded	No change	No opinion	Downgraded
Board Secretaries	4	4	0	1	1	5	2	2	4	5	0	4	9	14	2	7
Superintendents	3	9	1	3	2	14	2	0	4	6	2	3	9	29	5	6
Secondary Principals	8	5	2	0	6	8	2	2	4	7	3	2	18	20	7	4
Secondary Tenure Teachers	6	4	1 <sup>a</sup>	0	7	7	1 <sup>a</sup>	1	6	3	3	1	19	14	5	2
Secondary Probationers	5	5	1	1	7	5	1	1	5	6	1	2	17	16	3	4
Elementary Principals	5	6	1	0	8	7	1	1	7	5	2 <sup>b</sup>	1	20	18	4	2
Elementary Tenure Teachers	6	7	0	0	7	4	1 <sup>a</sup>	1	6	5	4	1	19	16	5	2
Elementary Probationers	5	3	3	0	8	0	3	1	8	3	1	2	21	6	7	3
TOTALS	42	43	9	5	46	50	13	9	44	40	16	16	132	133	38	30

<sup>a</sup>One no answer

<sup>b</sup>Two no answer

### Comparisons by School Size

The pattern of answers was quite consistent across all three sizes of schools. The prevailing answers were nearly equal--either "upgraded" or "no change." "No opinion" and "downgraded" each had a few responses from all three sizes of schools.

Question Five of Questionnaire I: How many teachers are on your staff that you feel should not be teaching?

It should again be noted that the word staff would sometimes refer to a larger group for a superintendent than for a secondary principal. The respondent group and school size should be considered when studying the responses. Tables 7, 8 and 9, pp. 59, 60 and 61, show the responses.

The most frequent answer for all groups was none (0). The median across all groups is 1.06 and the average is 2.05. The range across all groups shows that only two people felt that there might be as many as twenty people on their staff who should not be teaching. (See the footnotes in Table 8 for these two responses.)

### Group Comparisons

All groups show a consistently low number in answer to the question whether looking at the mean, median or mode.

When grouped together the three secondary respondents (principals, tenure and probationary teachers) generally show a larger mean, median and mode than do the corresponding groups at the elementary level.

Table 7: Summary of Question 5, Questionnaire I

Small Schools (less than 100 teachers)

How many teachers are on your staff that you feel should not be teaching?

	Individual responses (in rank order)	range	mean	median	mode
Board Secretaries	0,0,0,0,1,2,3,4,5	0-5	1.66	1	0
Superintendents	0,0,0,0,0,0,0,0,0,0,1,1,2,5,6	0-6	.94	0	0
Secondary Principals	0,0,0,0,0,0,0,0,1,1,2,3,3,4,?* 0,0,0,1,1, 1 or 2 <sup>a</sup> , 2,2,2, 2 or 3 <sup>a</sup> , 4,5	0-4	1.00	0	0
Secondary Tenure Teachers	0,0,0,0,1,1,1,1,2,3,4,?* 0,0,0,0,1,1,1,1,2,3,4,?* 0,0,0,0,1,1,1,1,2,2 (1 no answer)	0-5	1.75	1.5	2
Secondary Probationers	0,0,0,0,1,1,1,1,2,3,4,?* 0,0,0,0,1,1,1,1,2,2 (1 no answer)	0-4	1.18	1	0 +1
Elementary Principals	0,0,0,0,1,1,1,1,2,2 (1 no answer)	0-2	.82	1	1
Elementary Tenure Teachers	0,0,0,0,0,0,0,0,0,1,1,2,2	0-2	.46	0	0
Elementary Probationers	0,0,0,0,0,0,1,2,2,4 (1 no answer)	0-4	.90	0	0
TOTALS		0-6	1.09	.58	0

59

\*Not used in calculations  
<sup>a</sup>Midpoint used for calculations

Table 8: Summary of Question 5, Questionnaire I  
Middle-sized Schools (100-200 teachers)

How many teachers are on your staff that you feel should not be teaching?

	Individual responses (in rank order)	Range	Mean	Median	Mode
Board Secretaries	0,0,0,2,4,6, 10-20 <sup>a</sup> , 17, ?*, no opinion*	0-17	6.75	3	0
Superintendents	0,0,0,2,2,3,3,4,5,5,9,15, $\frac{1}{2}$ -1 $\frac{1}{2}$ *, ?*, no comment*, 130 <sup>b</sup>	0-15	4.15	3.5	3 +5
Secondary Principals	0,0,0,0,1,1,1,1,2,2,2,2,3,3,3,4	0-4	1.66	2	2
Secondary Tenure Teachers	0,0,0,0,0,1,1,2,2,2,2,3,3,3,3,?*.	0-3	1.50	2	0 or 2
Secondary Probationers	0,0,1,1,2,2,2,3,3,4,4,10, ?*, not qualified to say*	1-10	2.66	2.5	2
Elementary Principals	0,0,0,0,0,0,1,1,1,1,1,1, 1 or 2 <sup>a</sup> , 2,5,5,?*.	0-5	1.22	1	1
Elementary Tenure Teachers	0,0,0,0,0,1,1,2,5, 20 <sup>c</sup> , ?*, ?*, not an ethical question*, suitable only for tenure commission*	0-20	2.90	.5	0
Elementary Probationers	0,0,0,0,1,2,2,2,3, ?*, no opinion*, no opinion*	0-3	1.11	1	0
	TOTALS	0-20	2.74	1.5	0

\*Not used in calculations

<sup>a</sup>Midpoint used for calculations

<sup>b</sup>Probable the whole staff--a misinterpretation--see question. (Not used in calculations).

<sup>c</sup>Only one in my building."



Table 9: Summary of Question 5, Questionnaire I

Large Schools (over 200 teachers)

How many teachers are on your staff that you feel should not be teaching?

	Individual responses (in rank order)	range	mean	median	mode
Board Secretaries	0,1,1, 2-3 <sup>a</sup> , 2-3 <sup>a</sup> , 3, 3-6 <sup>a</sup> , 6,6, 1 or 2 warned*, several*, no reply*, ?*, 1-2%*	0- 6	2.83	2.5	3
Superintendents	0,0,0,1,2, 2-3 <sup>a</sup> , 2-20 <sup>a</sup> , 3-5 <sup>a</sup> , 5-6 <sup>a</sup> , *, 5%*, no idea*, very few*	0-11	2.94	2.0	0
Secondary Principals	0,0,0,0,0,1,1,1,2,2,2,2,3,4,5, no reply*	0- 5	1.53	1	0
Secondary Tenure Teachers	0,0,1,1,1,2,2,10, no reply*, no reply*, no way of knowing*, 25%*, 57 <sup>b</sup>	0-10	2.13	1.5	1
Secondary Probationers	0,0,0,0,0,2,2,2,3, 3-4 <sup>a</sup> , 4,?*, unknown*, not qualified to say*	0- 4	1.50	2	0
Elementary Principals	0,0,0,0,0,0,0,0,0,0,1,1,2,2, no reply*	0- 2	.43	0	0
Elementary Tenure Teachers	0,0,0,0,0,0,0,0,1,1,2,3,5, no reply*, who can judge*, who can judge*	0- 5	.92	0	0
Elementary Probationers	0,0,0,0,0,0,0,0,0,1,1,2,3,?*	0- 3	.54	0	0
	TOTALS	0-11	2.33	1.1	0
	TOTALS FOR ALL GROUPS IN TABLES 7, 8 and 9	0-20	2.05	1.06	0

\*Not used in calculations.

a)Midpoint used for calculations.

b)Probably the whole staff--a misinterpretation--see question. (Not used in calculations).

Elementary respondents are definitely more satisfied with their fellow teachers.<sup>1</sup> (This might be related to the greater difficulty in managing secondary students.)

### Comparisons by School Size

The mean and median show that the greatest dissatisfaction, regarding inadequate teachers, was in middle-sized schools. Large schools were second and small schools showed the least dissatisfaction as a whole. The magnitude of these differences are reduced (although differences still remain) if board members and superintendents are left out. Board secretaries and superintendents of the middle-size and large schools show the highest average answers. This is not surprising, since larger schools have more teachers and greater anonymity. For all three sizes of schools, the mode is zero. Middle-sized schools had five groups, however, with a mode of one or more. Large schools had two modes above zero, modes of one and three. Small schools had three modes above zero. Their magnitude was either two or one. By this method, the order of dissatisfaction is middle-sized schools, small schools and large schools.

The median is 1.5 for middle-sized schools, 1.1 for large schools and .58 for small schools. All seven groups, in the middle-sized

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<sup>1</sup>One answer from elementary tenure teachers of middle-sized schools seems to make this statement doubtful. Please read footnote c of Table 8.

schools, had a median above zero. Five groups had a median above zero for large schools. Four groups had a median above zero in small schools. The order of dissatisfaction, by size of school, is the same for both the mean and the median. Middle-sized schools show the greatest dissatisfaction with teachers although differences are very small. These figures indicate that few respondents know more than two or three inadequate teachers according to their own judgment.

Question Six of Questionnaire I: How many cases of unjustified teacher dismissals can you recall during your entire career in education?

Table 10, pp. 64-5, shows all of the responses to the question relating to unjustified dismissals. The mode and the median for all groups is zero. Sprinkled throughout every group were individuals who felt that they knew from one up to fifty cases of individuals who had been dismissed without good cause. There were 335 responses. Among these respondents were eighty-seven persons who said they knew of one or more instances. One in every four respondents knew of at least one case although most respondents (235) knew of none. Over seventy per cent knew of no unjustified teacher dismissals.

#### Group Comparisons

In all groups, high school tenure teachers gave the highest mean response and had the highest per cent of respondents who know of at



Table 10: Summary of Question 6, Questionnaire I

How many cases of unjustified teacher dismissals can you recall during your entire experience in education?

(This chart shows every response to Question 6 with the answers in rank order).

		less than 100 teachers		Ratio knowing at least one	Per cent knowing at least one	Range	mean	median	mode
Bd. Sec.	0,0,0,0,0,0,0,0,2			1/9	11	0-2	.20	0	0
Supt.	0,0,0,0,0,0,0,0,1,1,1,2,2, 3-4 <sup>a</sup> , very few*			7/16	44	0-4	.70	0	0
Sec. Prin.	0,0,0,0,0,0,0,0,1,2,4,5,6,7			6/15	40	0-7	.57	0	0
Sec. Ten.	0,0,0,0,0,1,1,2,2,3,3,6			7/12	58	0-6	1.50	1	0
Sec. Prob.	0,0,0,0,0,0,0,0,0,0,0,0,0			0/12	0	0	0	0	0
Elem. Prin.	0,0,0,0,0,0,0,0,1,1,1,2,2			5/12	42	0-2	.58	0	0
Elem. Ten.	0,0,0,0,0,0,0,0,1,1,1,1,2,3			6/13	46	0-3	.69	0	0
Elem. Prob.	0,0,0,0,0,0,0,0,1,1,1,3			3/11	27	0-3	.45	0	0
	TOTALS			35/100	35	0-7	.52	0	0
		100-200 teachers							
Bd. Sec.	0,0,0,0,0,0,0,0,0,0,1			1/10	10	0-1	.10	0	0
Supt.	0,0,0,0,0,0,0,0,0,0,0,1,1,2,3, 6-8 <sup>a</sup> , ?*			5/18	28	0-8	.82	0	0
Sec. Prin.	0,0,0,0,0,0,0,0,0,0,0,0,0,2,3,6,10			4/18	22	0-10	1.17	0	0
Sec. Ten.	0,0,0,0,0,0,0,0,1,1,1,1,2,2,3,3,10			9/17	53	1-10	1.41	1	0
Sec. Prob.	0,0,0,0,0,0,0,0,0,0,0,0,2,?* <sup>b</sup>			1/14	7	0-2	.15	0	0
Elem. Prin.	0,0,0,0,0,0,0,0,0,0,0,0,0,0,0,2,4			2/17	12	0-4	.35	0	0
Elem. Ten.	0,0,0,0,0,0,0,0,0,0,0,0,0,0,0 <sup>b</sup> , 1			1/13	8	0-1	.08	0	0
Elem. Prob.	0,0,0,0,1,2,2,2,3, no opinion*, ?*			5/12	42	0-3	1.11	1	0
	TOTALS			28/119	24	0-10	.65	0	0

(Table 10 continued on next page)

Table 10: Summary of Question 6, Questionnaire I

(continued from preceding page)

	more than 200 teachers	Ratio knowing at least one	Per cent knowing at least one	range	mean	median	mode
Bd. Sec.	0,0,0,0,0,0,0,0,0,0,1, not qualified to say*	1/13	8	0-1	.09	0	0
Supt.	0,0,0,0,0,0,0,0,0,0,0,1,1, 1 or 2 <sup>a</sup>	3/15	20	0-1.5	.23	0	0
Sec. Prin.	0,0,0,0,0,0,0,0,0,0,0,0,2, 3 <sup>c</sup>	2/16	12	0-3	.31	0	0
Sec. Ten.	0,0,0,0,0,0,0,1,1,3,5, 15 <sup>d</sup>	5/13	38	0-15	1.90	0	0
Sec. Prob.	0,0,0,0,0,0,0,1,2,2,5, there are more subtle ways*	5/14	36	0-5	.76	0	0
Elem. Prin.	0,0,0,0,0,0,0,0,0,0,1,2, 50 <sup>e</sup>	2/15	14	0-50 <sup>e</sup>	.21	0	0
Elem. Ten.	0,0,0,0,0,0,0,0,0,0,1,2,2,3	4/16	25	0-3	.50	0	0
Elem. Prob.	0,0,0,0,0,0,0,0,0,2,2, no experience*	2/14	14	0-2	.31	0	0
	TOTALS	24/116	21	0-50 <sup>e</sup>	.54	0	0
	OVER-ALL TOTALS (all 3 size schools)	87/335	27	0-50 <sup>e</sup>	.57	0	0

\*Not used for calculations

<sup>a</sup>Midpoint used for calculations<sup>b</sup>This person commented that other staff members describe numbers of these (unjustified dismissals).<sup>c</sup>Commented "during depression."<sup>d</sup>Commented "all at the same time after a millage defeat."<sup>e</sup>This one might be a misinterpretation. It is not averaged.

least one case of unjustified dismissal. (Again pressures of supervising secondary students may be showing up.)

School board secretaries consistently show the smallest number of responses indicating unjustified dismissals. Only three in thirty-two knew of a case each.

### Comparisons by School Size

The mode and median response for all sizes of schools was zero. Thirty-five per cent of respondents in small schools knew of at least one case of unjustified teacher dismissal. For middle-sized schools, twenty-four per cent knew of at least one case while twenty-one per cent reported such instances in large schools.

Since educators move around, the comparisons between districts are less meaningful. Thus, the answers by size of school may have nothing to do with their present school. The general pattern of movement may be from small to larger schools. It, therefore, seems likely that small schools do have more problems with unjustified dismissals. Small schools also may have larger proportions of beginning teachers which could result in a larger proportion of problems. Small schools may also be more personal and less anonymous than large schools making dismissals easier to remember.

Question Seven of Questionnaire I: If you see defects in the present law, please describe briefly.

Many answers were comments not relating to specific revisions. Only those comments relating to possible revision or changes in the law are recorded in Tables 11, 12 and 13, pp. 68-71.

Over half of the total group responding to Question 7 of Questionnaire I had no comment relating to changes in the tenure law (198 out of 335). One hundred thirty-seven did have suggestions. The most prevalent suggestion was to lengthen the probationary period. Twenty-one respondents suggested this. Fifteen respondents thought that dismissing a teacher was too difficult. Twelve comments related to contracts, dismissals or resignations. Eleven comments suggest that teachers may need greater protection especially in the probation period. Three say administrators need more protection, and two suggest that teachers should have a responsibility for tenure recommendations.

Other comments are valuable but are not repeated by other respondents. These may be read (as paraphrased) in Tables 11, 12 and 13.

### Group Comparisons

Elementary probationary teachers had the smallest per cent of responses (eight of thirty-seven or twenty-two per cent). Superintendents responded most frequently with twenty-six answers out of forty-nine responding for fifty-three per cent. See Table 14.



Table 11: Summary of Question 7, Questionnaire I

Small Schools (less than 100 teachers)

If you see defects in the present law, please describe briefly.

	Questionnaires		Number with Comments	Only those comments suggesting changes in the law are listed.
	Sent	Returned		
Bd. Sec.	20	9	2	Too difficult to discharge a teacher. To extend probation should require only a majority vote.
Supt.	20	16	6	Weak beginners will be released before they can prove themselves. (5)* Need longer probation period.
Sec. Prin.	20	15	6	Need longer probation period. (2)* Too difficult to eliminate poor teachers. Need more protection for beginning teachers. Administrators should have a two or three-year contract with renewal one year prior to expiration. Teachers should share in recommendations for tenure.
Sec. Ten.	20	12	5	Too difficult to eliminate poor teachers. May cause mass releasing of second-year teachers.
Sec. Prob.	20	12	5	Too difficult to eliminate inadequate teachers. Poor schools don't question retaining poor teachers.
Elem. Prin.	20	12	3	Probation period too short. Internship is needed in addition to practice teaching. Retirement age should be specified.
Elem. Ten.	20	13	2	(Two say teachers get too secure.)
Elem. Prob.	20	11	0	
TOTALS	160	100	30	8 say lengthen probation 7 too difficult to dismiss an inadequate teacher 3 relate to contracts, firing or resigning 3 say teachers may need more protection 1 says administrators need tenure 1 says teachers should share in tenure recommendations

\*The number of individual returns suggesting this.



Table 12: Summary of Question 7, Questionnaire I

## Middle-sized Schools (100-200 teachers)

If you see defects in the present law, please describe briefly.

	Questionnaires Sent	Returned	Number with Comments	Only specific suggestions for changing the law are listed.
Bd. Sec.	20	10	5	Probationary period should be extended.
Supt.	20	18	12	(5)*Lengthen probationary period. (3)*Change the July 1 date for returning contracts. Special certificates should be definitely excluded (by law) from tenure. A two-year withdrawal from teaching should end tenure status. The state should issue tenure cards subject to periodic examination and reissuance.
Sec. Prin.	20	18	7	How far can a board go in forcing non-degree teachers to get a degree? Tenure should be given principals.
Sec. Ten.	20	17	8	Unqualified personnel can be granted tenure while teaching in an area not qualified for. Administrators need protection from firing like a 2/3 confidence vote of faculty. Poor teachers keep getting on tenure because poor districts can't hire better ones. Boards are violating tenure by requiring contracts signed prior to 60-day deadline.
Sec. Prob.	20	14	5	Tenure can be circumvented by closing a department. The law should provide for teachers to share the right to accept or reject new people into the profession.
Elem. Prin.	20	17	10	(2)*Need longer probationary period. Date for resigning of July 1 is unfair to boards of education. Dismissal of teachers is too difficult and complicated. Administrators should be covered.
Elem. Ten.	20	13	5	Probationers need greater protection.
Elem. Prob.	20	12	3	(Some comments but no specific suggestions).
TOTALS	160	119	55	8 say lengthen probation 1 says too difficult to dismiss inadequate teachers 3 relate to contracts, firing or resigning 3 say teachers may need more protection 2 say administrators need tenure 1 says teachers should share in tenure recommendations

\*The number of individual returns suggesting this change.



Table 13: Summary of Question 7, Questionnaire I

Large Schools (over 200 teachers)

If you see defects in the present law, please describe briefly.

	Questionnaires Sent	Returned	Number with Comments	The comments listed are only those suggesting changes in the law.
Bd. Sec.	20	13	8	Too difficult to know what tenure commission considers poor teaching. We should be able to replace borderline teachers with good ones when better ones are available. Need longer probationary period and definite period for return of contracts. A dismissed probationary teacher has no way to improve himself. A unanimous full roll call vote to decide next year's teachers unnecessary. No provision to protect the board except appeal to tenure commission stacked with teachers. Lengthen probation, define school year and certified teacher.
Supt.	20	15	5	Should non-degree teachers get tenure? (2)*Lengthen probation. Harmonize with certification. Probation should be three years; tenure history shows evaluators seem to be intimidated. Tenure teachers should be subject to an evaluation every three years to check progress. Dismissal procedures for probationers need to be clarified. Probationary period is too short, especially for a teacher transferring from another district. Unfair that contracts need not be re-turned until sixty days prior to the start of school. Sixty-day deadline should extend throughout contract.
Sec. Prin.	20	16	6	Longer probation needed. (2)*Too difficult to dismiss teachers who are below average--administration is on trial. Sixty-days notice prior to the opening of school is not sufficient.

(Table 13 continued on the next page).

Table 13: Summary of Question 7, Questionnaire I  
(continued from preceding page)

	Questionnaires Sent	Returned	Number with Comments	The comments listed are only those suggesting changes in the law.
Sec. Ten.	20	13	4	Tenure teachers should get a review every five years. May take too long to dismiss a poor teacher; will school boards tend to dismiss probationers?
Sec. Prob.	20	14	7	(2)*Principals can overload teachers or use other means to force resignations.
Elem. Prin.	20	15	8	Why were not all teachers given a 2-year probation when the law went into effect? (2)*Need longer probation. Inadequate job behavior needs defining. How can you dismiss a probationer during a school year? Too much time is involved in evaluating; evaluating is wasteful for people not intending a career.
Elem. Ten.	20	16	8	The areas of contract termination, notification and issuance need clarification.
Elem. Prob.	20	14	6	The frequency of observation should be uniform.
TOTALS	160	116	52	9 say lengthen probation 7 say too difficult to dismiss inadequate teachers 8 relate to contracts, firing or resigning 4 say teachers may need more protection 0 say administrators need tenure 0 say teachers should share in tenure recommendations

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\*The number of individual returns suggesting this change.

### Comparisons by School Size

Small school respondents had the fewest suggestions for changes in the law. Table 14, page 73, shows the response among those returning questionnaires for small schools was twenty-nine per cent, middle-size schools was forty-six per cent and large schools was forty-seven per cent.

Board secretaries of large schools and superintendents of middle-size schools gave the largest per cent of responses among those who returned questionnaires. No suggestions were given by only one group--elementary probationary teachers from small schools.

These suggestions are, no doubt, related to the amount of interest or knowledge that these individuals had in the tenure law.

Question Eight of Questionnaire I: Write a comment or two that reflects your views on tenure.

Four hundred eighty questionnaires were sent. Three hundred thirty-five questionnaires were returned. The responses divided naturally into four types: no comment, neutral, negative and positive. Over-all, there were fifty no comment, seventy-five neutral, seventy-four negative and 134 positive comments. (One comment was not legible.) See Table 15, page 75.

### Group Comparisons

School board secretaries showed the largest proportion of negative responses (twelve of thirty-two). This was the only group



Table 14: Per cent answering Question 7, Questionnaire I,  
from among those who returned the questionnaire

	Small Schools less than 100 teachers			Middle-size Schools 100-200 teachers			Large Schools over 200 teachers			Over-all % by groups responding to question	Total ratio of re- sponses to Question 7 to returns
	Ques. sent	Ratio of responses to returns	Per cent answering Question 7	Ques. sent	Ratio of responses to returns	Per cent answering Question 7	Ques. sent	Ratio of responses to returns	Per cent answering Question 7		
Bd. Sec.	20	2/9	22	20	5/10	50	20	8/13	62	47	15/32
Supt.	20	6/16	37	20	12/18	67	20	8/15	53	53	26/49
Sec. Prin.	20	6/15	40	20	7/18	39	20	6/16	37	39	19/49
Sec. Ten.	20	5/12	42	20	8/17	47	20	5/13	38	43	18/42
Sec. Prob.	20	5/12	42	20	5/14	36	20	7/14	50	42	17/40
Elem. Prin.	20	3/12	25	20	10/17	59	20	8/15	53	48	21/44
Elem. Ten.	20	2/13	15	20	5/13	38	20	8/16	50	36	15/42
Elem. Prob.	20	0/11	0	20	3/12	25	20	5/14	36	22	8/37
TOTALS	120	29/100	29	160	55/119	46	160	55/116	47	41	139/335

with more than one-third of the comments classified as negative.

Superintendents were nearly evenly divided in the four kinds of answers: positive, neutral, no comment, and negative.

The tenure teachers at both levels were definitely the most positive in their comments about tenure. Taking elementary and secondary together, there were fifty-one positive and twelve negative. Principals were also positive. Taken together, the elementary and secondary principals had thirty-seven positive comments against nineteen negative comments.

Probationary teachers tended to be more evenly divided in their comments although still tending to be positive. Taken together they gave twenty-seven positive comments compared to nineteen negative ones.

### Comparisons by School Size

Each of the three sizes of schools shows more positive than negative responses. Small schools show a ratio of two to one of positive to negative (thirty-five to eighteen); middle-size schools are slightly higher (fifty-four to twenty-four) while large schools are not so positive with forty-six positive comments compared to thirty-two negative ones for a three to two ratio.

The small schools had neutral responses slightly larger than the negative responses. Middle-sized schools had equal totals in these

Table 15: Summary of Question 8, Questionnaire I

Write a comment or two that reflects your views on tenure.

The kinds of comments are shown below as NC--no comment, NT--neutral, N--negative, P--positive.

	Small Schools less than 100 teachers						Middle-size Schools 100-200 teachers						Large Schools Over 200 teachers						Totals Across Groups						
	sent	returned	NC	NT	H	P	sent	returned	NC	NT	N	P	sent	returned	NC	NT	N	P	sent	returned	NC	NT	N	P	
Bd. Sec.	20	9	4	2	1	2	20	10	3	2	3	2	20	13	1	1	8	3	60	32	8	5	12	7	
Supt.	20	16	4	4	5	3	20	18*	4	5	3	5	20	15	4	2	4	5	60	49*	12	11	12	13	
Sec. Prin.	20	15	0	4	4	7	20	18	4	2	6	6	20	16	2	3	4	7	60	49	6	9	14	20	
Sec. Ten.	20	12	1	3	1	7	20	17	1	2	2	12	20	13	1	5	2	5	60	42	3	10	5	24	
Sec. Prob.	20	12	3	5	2	2	20	14	1	3	3	7	20	14	1	3	4	6	60	40	5	11	9	15	
Elem. Prin.	20	12	3	5	1	3	20	17	1	6	2	8	20	15	3	4	2	6	60	44	7	15	5	17	
Elem. Ten.	20	13	1	3	1	8	20	13	0	2	2	9	20	16	1	1	4	10	60	42	2	6	7	27	
Elem. Prob.	20	11	3	2	3	3	20	12	2	2	3	5	20	14	2	4	4	4	60	36	7	8	10	12	
Totals by School Size		160	100	19	28	18	35	160	119*	16	24	24	54	160	116	15	23	32	46	480	335*	50	75	74	135

\*One unintelligible

two responses. In large schools, however, the negative response totaled thirty-two compared with twenty-three neutral.

The numbers of respondents having "no comment" were smallest in each size school. The proportion of neutral and no comments taken together was higher in the small schools. The ratios are: small schools, forty-seven of one hundred; middle size schools, forty of one hundred nineteen; and large schools, thirty-eight of one hundred sixteen.

A Summary of Questionnaire II to Superintendents of Those Fifty-nine  
Schools which had Tenure under the Original 1937 Optional Tenure Law.

(See Appendix B)

Question 1: Has the 1964 Michigan Teacher Tenure Act made any significant changes for your district (which already had tenure)? If yes, describe briefly:

51 superintendents replied  
46 superintendents said--no significant changes  
5 gave these statements:

1. It has pointed up the value of good early evaluation.
2. We reviewed policies with the administration, removed weak teachers and raised the salary schedule by \$500.
3. It has made only one alteration in personnel policies--took a year to do it.
4. Apparently, it is now easier to remove probationary teachers than under the previous attorney general ruling.<sup>2</sup>

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<sup>2</sup>This refers to the provision in the new law (1964) omitting probationers from the appeal provision. See Article VI of the Tenure Act. (page 175)



5. This is the first year that the local MEA group has not been satisfied with salary adjustments (a \$400 raise).

Question 2: Has tenure had any effect on the quality of teaching performance in your district? Yes or no (circle one). If yes, is it a higher or lower quality of performance for the staff as a whole: Higher or lower (circle one). Any further comments:

26 replied "no difference"

17 replied "higher"

2 replied "lower"

6 gave various "other answers." These 6 are listed below:

1. We have not had tenure long enough to see a difference. More careful evaluation new teachers should improve the quality of teaching.
2. Some teachers, entering teaching on a temporary basis, take advantage of the protection; the mandatory observations and evaluations cause others to think more seriously of their positions.
3. Tenure has made us critical at times. We did release several the first year. Some administrators are too kind in judging; gradual deterioration of performance makes dismissal impossible; tenure does not allow for honest errors in judgment or furnish solutions for mentally ill or senile teachers.
4. Three said the effect of tenure hasn't been measured.

Interviews with the Tenure Commission and Ex-officio Secretary

<u>Commission Members</u>	<u>Address</u>	<u>Representing</u>	<u>Appointed</u>
Harry A. Lockwood, Chairman	Monroe	Lay Public	1963
Miss Gladys Davis	Royal Oak	Teacher	1951
Chalmer Young	Bay City	Teacher	1963
Mrs. Marian Gibson	Newberry	School Board	1965
Albert C. Johnsen	Benton Harbor	Superintendent	1963
Alexander J. Kloster, Ex-officio	Lansing	Acting for Superintendent of Public Instruction	

The following is a paraphrasing of each interview (the writer is responsible for all errors and interpretations). These interviews were held in June of 1965. The basis of the interview was a general question: What problems do we now have, or may have in the future, with the teacher tenure law?

Harry A. Lockwood

The local administration and school board are the key to making tenure work. Technicalities in the administering of the law at the local level causes most of the problems. I have sat in on only six cases, but this is what I see so far. The commission is not generally involved in judging whether a teacher is fit or not; the usual question is whether the law was properly administered. The law governs and the commission must act according to law. In a few vague areas, it may interpret. The big problem is to be sure to have enough help administratively to make the law function.

Students often have little choice in selecting their teachers.

Administrators are the only protection students have from bad teachers.

The superintendent, whether he likes it or not, will have to learn to enforce the tenure act if it is to work. A good attorney may be necessary to advise him.

Teachers have become tremendously more powerful in the past few years with the administration becoming relatively weaker. It also seems as though the American Federation of Teachers and the Michigan Education Association may be sorting some of the cases that come to the Commission.

The Ann Lash case points up a weakness of the Act. A teacher who achieves tenure, retires for a few years and then returns to the same school district is still a tenure teacher. The school board must hire her as a tenure teacher or not at all. She cannot serve another probation in that school district. Some provision is needed to allow tenure rights to lapse after a period out of active teaching.

#### Miss Gladys Davis

The tenure law is a sound law because it is brief and broad in scope. It can be adapted to the times and to new situations. Everything should not be spelled out in the law or it might become inflexible and obsolete. Change can come through interpretation by the commission and the courts.

One major defect was created by a 1963 amendment to the law. In Article VI (Right of Appeal) probationary teachers were excluded from the right to appeal to the Tenure Commission. Thus, even if a teacher's rights as a probationer are violated (such as improper

notification or denial of a hearing), he has no recourse. Past experience shows that teachers can be denied their rights as probationers. Senate Bill No. 446 is necessary. This bill restores the right of appeal to probationers.

Chalmer Young

The big problems are not in the law itself although there may be minor problems in it. The real problem is that controlling boards and teachers do not understand procedures or the law. Appeals are too often based on technicalities.

The number of appeals, considering that it now applies to all districts in the state, are surprisingly few. Perhaps this is because of a lack of knowledge of the law.

A uniform contract may be needed state-wide to help comply with the law.

A tenure commissioner might be needed at some future time to iron out technicalities before they get to a commission hearing. This would be necessary only if appeals increase considerably.

If some poorer schools would use the device of letting teachers go after the two years probation, in order to keep costs down, the right of probationers to appeal might become a problem area.

Mrs. Marian Gibson

I have heard only part of one case so far and haven't been on the Commission long enough to judge very much.

The tenure law should protect both teachers and the public as represented by school boards. The law should not be used solely to protect teachers' rights.

Albert C. Johnsen

Some grey areas are: (1) How to dismiss a teacher during the school year (immediately that is). (2) When are teachers required to sign contracts? Some teachers feel they are on continuing contract and don't have to sign yearly contracts. The attorney general says a contract return date is legal, but this may have to be settled in court eventually. (3) How is tenure determined for a teacher working in two systems at once?

Up to now, the cases before the Commission are settled according to the law. (I've been involved in about six hearings so far.) Did the board follow the law is always the question. Procedural errors can force the Commission to reverse a board of education decision, even if the Commission believes the board is right.

Graduate courses in education should soon include a discussion of tenure law. Many educators do not understand the law nor the problems of decision making at the Commission level. The Commission must decide according to the law.

Alexander J. Kloster

The law is quite clear regarding the functioning of the Commission.

Some possible problems are:

1. If a teacher is placed on third-year probation, when does this teacher go on tenure? If not on tenure, a teacher has no appeal to the Commission.
2. If a teacher teaches part time for a whole year, is this a year of probation?
3. Under consolidation of districts, an analysis of statutes indicates that the new board can require an additional year of probation for those who had tenure in any of the original districts.
4. If a teacher, having tenure, leaves teaching for several years and wishes to be re-hired in the same school district, another probation period may not be served in the same district. The law could work against a teacher here since a board might be very reluctant to hire a teacher whose character or personality is now unknown. There is now no way to provide a new trial period in the same district. Article X states that no teacher can waive rights under this act. Perhaps a new one-year probation should be required after a five-year absence from teaching.

#### Interview with Michigan Education Association Representatives

Herbert Surtman and Donald Giese have worked on the staff of the MEA since 1963 and 1958, respectively. Together they discuss tenure giving their views which are not necessarily the official views of the Michigan Education Association. The basic question again was

"what problems or potential problems are created by the tenure act in Michigan?" The following is a paraphrases account of their comments.

The Michigan Education Association advises teachers of their rights under tenure but may not always encourage a case to be appealed to the Tenure Commission. This depends on the merits of the case and the advice of counsel.<sup>3</sup>

Some problems are:

1. The law should either give administrators tenure rights or deny such rights. This should not be left to the discretions of school boards. Some changing board memberships and changing policies have created situations in some districts where some administrators in the same district have tenure and some do not.
2. Most problems are related to the implementation of the law; lack of knowledge of the law. Procedural matters cause the difficulties.
3. The law simply gives an orderly dismissal procedure. Dismissal can no longer be arbitrary. Evaluation of teachers is now nearly compulsory.
4. When teachers sign contracts prior to sixty days before the beginning of the next school year, are they waiving tenure rights contrary to Article X of the Tenure Act? Can a board declare a position

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<sup>3</sup> This answers Tenure Chairman Harry Lockwood's question, p. 79.

vacant if a contract is not returned as specified? These men (Surtman and Giese) believe that an unsigned contract tendered by a school board to a teacher is an offer which, if turned down, requires further bargaining. The teacher is still employed and could offer the board a different contract. Once signed by both parties, ethics require that it be broken only by mutual consent.

5. The deadline areas of the sixty-day notice to teachers prior to the close of school (if a board decides not to rehire) and the resignation time sixty days prior to September 1 of the next school year, (a teacher may resign up to this time without penalty) may need some adjusting at a future time.
6. A standard state-wide contract form for employment of teachers might be useful and needed.
7. The Michigan Education Association is not sponsoring any changes in the law for the 1964-65 legislative session.
8. Contrary to the impression of many persons, a four-three vote in a district presently under tenure can deny tenure to a second-year probationary teacher. The first part of Article II refers only to the implementation of the Act. A teacher with two or more years of employment could be denied tenure by the required unanimous vote during the implementation of the Act. This does not include second-year probationers after the act is in force. (Attorney General opinion No. 782, May 26, 1948)



9. There were a few problems relating to teachers denied tenure in the fall of 1964 because this denial was interpreted as being "continued on probation." It was, in fact, a legal notice that after completing this year's contract, the teacher was dismissed.
10. The law states that the controlling board must give notice to teachers of unsatisfactory service--not principals or administrators. If this is not followed, a procedural error is committed.
11. Administrators are denied tenure by contract. (That is, in the individual contract.) This cannot be done by a policy statement alone if correct procedure is to be followed.
12. A better definition of teacher is needed. Administrators, librarians, counselors, psychologists, business managers and curriculum coordinators are examples of grey areas. Some of these people are not required to have teaching certificates. Community college teachers in a community college operated by a public school (like Port Huron) are in a confused state. Those community college teachers with teaching certificates are under tenure. Those without certificates are not. The intermediate districts of the state are tenure districts. All these specialists that are certified by the State Board of Education are under tenure provisions.
13. When reducing staff, would educational qualification or seniority prevail? Districts in which annexation reduces their enrollments face this problem.

14. A reasonable retirement age is still a grey area.
15. During consolidation of schools, some assurance of tenure rights in the new district should be given teachers if they are to promote any such logical mergers.<sup>4</sup>

### Results of Questionnaire III<sup>5</sup>

Questionnaire III was sent to the 60 stratified, randomly-selected school superintendents, chosen as the sample for this study, who had already answered Questionnaire I. This request was mailed in very late June so that it would coincide with the last date for teachers to resign as provided for in the law. The law provided that teachers could resign sixty days prior to September 1 of the ensuing school year. By July, too, most of the superintendents who had problems with tenure would be well aware of them both in regard to releasing teachers and to dismissing them.

The following four tables summarize the results of Questionnaire III for the three sizes of schools. (Tables 16, 17, 18 and 19, pp. 88, 90, 91 and 93, respectively)

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<sup>4</sup>In Cheboygan, Michigan, the new school board in a newly consolidated district exercised its prerogative and denied tenure to all teachers. Thus a new probation period was required for many teachers who had had tenure in the old district.

<sup>5</sup>See Appendix A for Questionnaire III.

to discontinue them.

would be well aware of them both in regard to religious teachers and  
July, too, most of the superintendent who had problems with people  
resign six days prior to September 1 of the current school year. A  
resign was dated 10-10-1961. The last provided a reference to  
late June school year. Working with the is a date for each year  
already as well as 1960-1961. This recent was half of the year  
school superintendent, based on the people for this school year. The  
questioning the answers related to the (a) school year, as many as

III for the three sizes of a boat. (Tables 16, 17, 18 and 19, pp. 86-87)

1. The first of these is the fact that the new system is based on a new set of principles, and that the new system is based on a new set of principles.

The first two terms of  $\mathcal{H}_1$  are  $\mathcal{H}_1^{\text{kin}} = \frac{1}{2} \dot{\phi}^2$  and  $\mathcal{H}_1^{\text{pot}} = \frac{1}{2} m^2 \phi^2$ .

The Results of Questionnaire III for Small Schools

All twenty superintendents returned the questionnaire. In these twenty small schools (less than 100 teachers per school), only two teachers were asked to serve a third year of probation; seven first-year probationers were not offered contracts for the ensuing year; five second-year probationers were not offered contracts; three tenure teachers were released plus one who was denied tenure by the unanimous vote required during the implementation period of the law. Four tenure teachers were encouraged to resign and did so. Thirty-two teachers were encouraged to resign and did so. Thirty-two teachers asked for releases (less than two per school on the average) prior to the sixty-day deadline. Five of the twenty superintendents thought that resignations were a problem. The comments of four of these superintendents are shown at the bottom of Table 16, p.88. One did not comment.

Table 16: Summary of Questionnaire III, Dismissals and Resignations  
Small Schools (less than 100 teachers)

Question	Answers from 20 supts. (100% return)*	Totals
1. How many teachers were placed on third-year probation?	1,0,0,0,0,0,0,1,0,0,0,0,0,0,0,0,0,0,0,0,0	2
2. How many first-year probationers were not offered contracts?	0,0,0,1,0,0,0,0,1,0,0,1,2,1,0,1,0,0,0,0,0	7
3. How many second-year probationers were not offered contracts?	1,0,0,0,1,0,0,0,3,0,0,0,0,0,0,0,0,0,0,0,0	5
4. How many tenure teachers were dismissed?	0,1 <sup>a</sup> ,0,0,0,0,0,0,0,0,0,0,0,0,0,1,1,1 <sup>b</sup> ,0,0,0,0,0	3 + 1
5. How many tenure teachers were encouraged to leave and resigned?	0,1,0,0,0,0,0,0,0,0,1,0,0,0,2,0,0,0,0,0,0,0	4
6. How many teachers gave written notice of the intention not to return 60 days prior to September 1? Was this a problem	2,1,0,2,1,0,4,5,6,0,0,7,2,0,1,0,1,0,0,0,5 no, can be, no, no, yes, no, yes, yes, no, no, no, no, no, no, no, no, yes, no, no, no	37 yes 5
7. Any comments or suggestions?	Fifteen had no comments. Five comments listed below.  The written notice of resigning makes earlier contracts of no value. Late resignation makes finding <u>qualified</u> teachers difficult. Small school, stable faculty. All four moved to better positions. We were happy for them even though it caused problems. Teachers do not understand the law. They assume they can break contracts up to July 1.	

\*Twenty questionnaires sent, twenty returned for a 100% return.  
<sup>a</sup>Health problem  
<sup>b</sup>Refused tenure under provisions of the new law

### The Results of Questionnaire III for Middle-sized Schools

Fifteen superintendents of twenty queried answered Questionnaire III for schools with from one hundred to two hundred teachers.

For these fifteen schools, nine teachers were placed on third-year probation; ten first-year probationers were not offered contracts; eight second-year probationers were not offered contracts; one tenure teacher was dismissed; and four tenure teachers were encouraged to resign and did so. One hundred twenty-one teachers asked for releases prior to the sixty-day deadline; three superintendents made comments shown at the bottom of Table 17, p. 90.

### The Results of Questionnaire III for Large Schools

Nineteen of twenty superintendents responded to this questionnaire for these schools with more than two hundred teachers. Taken altogether, thirty teachers were placed on third-year probation; nineteen first-year probationers were released; seventeen second-year probationers were released; seventeen second-year probationers were not renewed; six tenure teachers were dismissed and nine tenure teachers resigned "with encouragement." Three hundred nineteen teachers asked for releases and six superintendents among the nineteen thought this was a problem. Seven superintendents made the comments shown at the bottom of Table 18, p. 91.

Table 17: Summary of Questionnaire III, Dismissals and Resignations  
Middle-sized Schools (100-200 teachers)

Question	Answers from 15 supts. (75% return)*	Totals
1. How many teachers were placed on third-year probation?	1,0,1,1,0,0,0,1,3,1,0,0,1,0,0	9
2. How many first-year probationers were not offered contracts?	0,0,2,0,0,1,1,0,0,0,0,3,2,1,0	10
3. How many second-year probationers were not offered contracts?	1,0,0,1,0,0,0,0,0,0,0,5,1,0,0	8
4. How many tenure teachers were dismissed?	0,0,0,0,0,0,0,0,0,1,0,0,0,0,0	1
5. How many tenure teachers were encouraged to leave and resigned?	0,0,1,0,0,0,1,0,0,0,0,0 <sup>b</sup> ,0,0,0,1,1	4
6. How many teachers gave written notice of the intention not to return 60 days prior to September 1? Was this a problem?	 _a,7,0,2,0,1,4,3,12,0,35,0,0,20,12,16  _a, yes, no, no, no, no, no, yes, no, no, _a, no, no, no, some, no	121  yes 3
7. Any comments or suggestions:  Sixty days is too short; June 15 would be better. Boards are getting more defensive about releases. Our contracts are signed before the sixty-day deadline. It was not difficult to find replacements. Short supply of some kinds of teachers makes tenure difficult to apply adequately. Teachers do not know that they must write letters of resignation.	Nine had no comments. Six comments listed below.	

\*Twenty questionnaires sent, fifteen returned for a 75% return.  
aLeft blank.  
bA third-year probationer was encouraged to leave and resigned.





Table 18: Summary of Questionnaire III, Dismissals and Resignations  
Large Schools (over 200 teachers)

Question	Answers from 19 supts. (95% return)*	Totals
1. How many teachers were placed on third-year probation?	1,0,1,5,3,0,2,0,0,1,7,0,0,2,4,0,2,0,2	30
2. How many first-year probationers were not offered contracts?	2,0,0,3,0,2,0,0,2,0,1,0,0,0,3,1,0,0,5	19
3. How many second-year probationers were not offered contracts?	1,0,3,2,2,1,0,1,0,0,0,0,0,0,5,1,0,0,1	17
4. How many tenure teachers were dismissed?	0,0,0,0,0,0,0,0,0,0,0,0,0,0,3,0,0,3,0	6
5. How many tenure teachers were encouraged to leave and resigned?	2,0,0,2,0,1,0,0,0,0,0,0,0,0,0,0,2,0,2,0	9
6. How many teachers gave written notice of the intention not to return 60 days prior to September 1? Was this a problem?	a,0,0,20,12,5,0,0,a,48,50,a,21,0, 2,31,2,0,124,4 a, yes, no, no, no, no, yes, no, yes, no, not unusual, no, no, a, no, yes, yes, a, yes, no	319 yes 6
7. Any comments or suggestions?	Twelve had no comments. Seven comments listed below.  No major problems. The 60-day provision is not significant under a contract system. We do release for valid reasons. Teachers continue to seek jobs all summer long. Tenure teachers waited until the July deadline before returning contracts. Part-time and substitute teachers are our biggest problem. People forced to fulfill contracts might become worse problems. Extend probation to three years and allow a fourth year upon written request. Standardize teacher contracts for the state as well as procedures for late releases. Teachers continue looking for other assignments after signing contracts.	

\*Twenty questionnaires sent, nineteen returned for a 95% return.  
a left blank.

### Comparison Between Schools of the Results of Questionnaire III

Table 19, p. 93, summarizes the comparisons for the three sizes of schools for Questionnaire III. Considering the numbers of teachers in the three sizes of schools represented, nothing unusual is apparent when comparisons are made between schools. It might seem strange that the fifteen middle-sized school superintendents altogether released only one tenure teacher. Four additional teachers, however, were encouraged to resign and did so.

When the results of questions four and five are added together, the results indicate that small schools are removing a larger proportion of tenure teachers than the other two groups when size of staff is considered.

The magnitude of the answers for all other questions in relation to school size are generally in proportion.

### A Summary of Questionnaire III

The answers show that a very small number of teachers are being required to serve a third year of probation. A slightly smaller number of teachers are being refused contracts at the end of either the first or second year of probation. A very small number of tenure teachers in all sizes of schools are being dismissed and a slightly larger number are being counseled out of the profession.

Approximately 472 teachers of 11,000 staff members, or one in twenty asks for a release from his position. Twenty-six per cent of the superintendents responding thought this to be a problem.



Table 19: Comparisons between different size schools for Questionnaire III\*

	Totals		
	for 20 small-school superintendents	for 15 middle- sized-school superintendents	for 19 large-school superintendents
1. How many teachers were placed on third-year probation?	2	9	30
2. How many first-year probationers were not offered contracts?	7	10	19
3. How many second-year probationers were not offered contracts?	5	8	17
4. How many tenure teachers were dismissed?	3	1	6
5. How many tenure teachers were encouraged to leave and resigned?	4	4	9
6. How many teachers gave written notice of the intention not to return 60 days prior to September 1? Was this a problem? (Yes replies)	32 5	121 3	319 6
7. Any comments or suggestions? (Number making suggestions or comments).	5	6	7

\*Large schools--over 200 teachers  
Middle-sized schools--from 100-200 teachers  
Small schools--less than 100 teachers

A Review of Appeals to the Tenure Commission During the School Year 1964-65<sup>6</sup>

Two cases were heard by the Tenure Commission during this first school year of state-wide mandatory tenure. Three additional appeals were made after the close of the school year ending June 30, 1965. Between the effect of mandatory tenure on August 28, 1964, and September 1, 1965, a total of five cases were appealed to the commission.

The Ann Lash case was heard in November of 1964. The case points out that a tenure teacher who has not taught for several years could return to the same system only as a tenure teacher. The administration and the board of education were required to continue as a tenure teacher one who had returned to service in a tenure system (City of Dearborn), even though she had been distinctly hired as a temporary replacement. The law of tenure was unanimously upheld by the five-member commission with a brief concurring opinion from Harry Lockwood, the Commission Chairman. He felt that a new trial period should be provided in the tenure law for teachers who have not taught for several years. A one-year trial period is provided for if a teacher changes systems. This should also be provided for when a teacher returns to teaching in a system where he had achieved tenure stature.

This case is not related to the fact that Michigan had a new state-wide tenure law. It arose in August prior to the advent of the new law

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<sup>6</sup>Based on materials from the Tenure Commission. See Appendix E.

in a district which had tenure under local option.

The second case was not related to the new mandatory tenure law either. The City School District of Hazel Park was a tenure district under the local option law, too. The appeal, known as the Bobby Jack Young case, again shows that a board must follow the tenure law carefully or procedure will invalidate their efforts to dismiss a teacher. The board made several errors in procedure but the main thrust of the arguments were similar to the Wilson versus Flint case of 1960. After a probationary period is completed, tenure is received unless a board notifies the teacher at the proper time at least sixty days prior to the close of the school year that he will not be continued.

The number of appeals during the first year of mandatory tenure has shown no increase.

#### Summary of the Inquiries

This research is easier to follow when the Tables in this chapter are consulted.

Questionnaire I, based on a seventy per cent return, answers several questions. Most respondents tend to believe that supervision is better or has not changed. Inadequate teachers were believed to be harder to eliminate although Table 4, p. 53, should be re-examined for a better understanding. Teachers were generally believed to be more secure even among probationers responding. The respondents believed that the profession was either upgraded or had not changed.

One hundred seventy-one respondents knew an inadequate teacher

based on their own judgment.<sup>7</sup> The mode response was zero, the median was 1.06 and the average was 2.05. Few incompetents are believed to be teaching as shown by the 335 respondents who are closest to the teaching scene. Half of the respondents, however, knew at least one.

Eighty-seven respondents knew of a case or cases of unjustified dismissals. The mode for this question (see Table 10, p. 64) was zero, the median was zero and the mean was .54. Few unjustified dismissals are indicated. But one in four respondents knew of at least one such instance.

The most prevalent suggestion (twenty-one respondents) for improving the law was to lengthen the probation period. Only fifteen respondents suggested that dismissing a teacher was too difficult.

In responding to the open-ended question, No. 8, "comment on the law" (see Table 15, p. 75), 134 positive comments were made, seventy-four were negative, seventy-five were neutral and fifty had no comment.

Superintendents of the fifty-nine districts which had tenure under the option law returned fifty-one questionnaires. Forty-six indicated that the new mandatory law did not make any significant changes for them. When asked how tenure had effected the quality of teaching in their district, twenty-six replied that it had no effect, seventeen re-

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<sup>7</sup>There could, however, be eight respondents in a single school recording the same incompetent teacher.

plied teaching was improved, only two said that teaching quality was adversely effected by tenure in their opinion.

The tenure commission members responded to the question of "what problems do we now have or may have in the future with the tenure law?" It seemed clear that the main problem is a lack of understanding of the law by all groups. It also was evident that the law of tenure has to be followed by the Commission regardless of personal feelings. Cases are rarely decided on the basis of whether a teacher is adequate but almost always are decided by whether procedure was followed.

The interviews with Michigan Education Association representatives again pointed up the legal aspects of the Tenure Law. An attorney is necessary for a party involved in tenure decisions as presently operating. A number of areas are unclear and will need gradual adjusting through experience and application of the law.

Questionnaire III (see Tables 16, 17, 18 and 19, pp. 88, 90, 91, and 93, respectively) provides this information: Very few teachers are being required to serve a third year of probation, few probationers are being released and very few tenure teachers are either released or counseled out of teaching. The majority of superintendents (about seventy per cent) were not concerned about late resignations.



The number of appeals to the Tenure Commission remained at a low level. Only two were appealed during the 1964-65 school year. This is near the average of about one case per year under the 1937 local option law in effect prior to the state-wide mandatory law.

## CHAPTER V

### SUMMARY AND RECOMMENDATIONS

#### Background

Michigan had a 1937 optional tenure law for twenty-seven years. Local districts could adopt this law if the local qualified voters voted to do so. Fifty-nine districts had adopted this law. In 1964, the law was amended to make it mandatory for all of the more than one thousand school districts of Michigan then in existence. The Michigan Education Association had forced the Republican-controlled Legislature and the Michigan School Board Association to accept a law that neither was enthused about. The threat of making the law a constitutional amendment moved the legislature to enact a statute so that it could be amended by the legislature should the need arise later.

#### Tenure Literature

A review of tenure literature revealed that numerous articles had been written, but relatively few studies had been conducted. Summaries of existing laws were available from the National Education Association and the American Federation of Teachers. One major research was conducted in 1934 by Cecil Winfield Scott at Columbia University.<sup>1</sup>

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<sup>1</sup> Scott, op. cit.



He believed that the question of whether teachers should have tenure was philosophical. The question of "arbitrary dismissal" versus an "entrenched profession" could not be resolved. Scott related the tenure movement to the concepts of Civil Service with standard salary schedules and protection from arbitrary dismissal by changing administrations. This tradition is strongly followed in Western Europe for both teachers and other civil servants.

### Five Inquiries

This dissertation proposed five inquiries to study tenure in Michigan. The five inquiries were tabulated and summarized in Chapter IV. The table of Chapter IV should be studied should questions arise regarding the inquiries or conclusions.

### QUESTIONNAIRE I

Questionnaire I was sent to 420 educators plus 60 school board secretaries. Table 2, page 49, shows that 335 questionnaires were returned out of the 480 sent. Eight types of respondents in three sizes of school districts were systematically sampled. This questionnaire posed eight questions. The results were summarized as follows:

1. Most respondents believe that the supervision of teachers under tenure provisions had not changed. A large group believed that it was better. School board secretaries and superintendents were the only groups which had more respondents who believed that supervision, by administrators, was better rather than "unchanged".
- There was no indication from these returns that probationary teachers

were unduly oppressed by stringent supervision, since their response was not negative on this question. Small schools showed the strongest tendency to answer that supervision had not changed. Middle-sized and large schools tended to be evenly divided between the answers "no change" and "better."

2. The question regarding the elimination of inadequate teachers under mandatory tenure gave a mixed pattern of responses. One hundred eleven respondents answered "more difficult" followed by one hundred who checked the response "no change." Sixty-eight checked "more easily eliminated" followed by forty-eight responding "no opinion." Overall, probationary teachers show a small tendency to answer "more easily eliminated" or "more difficult" with fewer responding "no change." The small school respondents answered "easier" less frequently than middle-size and large schools. This answer from small schools combined with their answer that supervision had not changed lead one to speculate that supervision in small schools is less intensive than in the middle-sized or large schools.

3. Question 3 reveals that most (176) of the 335 respondents felt that teachers were more secure under tenure. "No change" was second choice with 120 responses. Large schools, however, were equally divided between these two responses. Large schools, because of the increased bargaining power of their larger teacher groups, probably had many tenure characteristics included in board

policy and practice. Superintendents and principals showed a greater tendency to answer "no change" to the question of teacher security. But teachers and board members tended to answer more frequently that teachers were "more secure" under tenure.

4. The question of whether tenure upgraded the profession drew responses that were equal. "Upgraded" was indicated by 132 respondents while "no change" had 133 responses. Superintendents felt most strongly that "no change" was true, while elementary probationers felt most strongly that the profession was "upgraded." Board secretaries, along with superintendents, tended to answer "no change" and also to answer "downgraded." But even in these two groups "upgraded" drew more responses than did "downgraded." Differences by school size were not evident.

5. The fifth question was "How many teachers are on your staff that you feel should not be teaching?" The most frequent answer (mode) was none (0). The median across all groups was 1.06 and the average was 2.05. Secondary respondents show a higher average response as well as a larger range. This might well be explained by two possibilities. These staffs are larger and the psychological pressure of managing secondary students is greater.

Middle-sized schools show a slightly higher incidence of dissatisfaction with teachers in response to this question. This might be related to suburban phenomena. Economic and social expectations in areas of middle-sized schools may be higher. It seems doubtful

that the quality of teachers is lower in these schools.

One hundred seventy-one respondents (of 335) knew of at least one incompetent teacher. This statistic seems to confirm the necessity for good procedures for recruiting as well as for pruning teaching staffs if the views of these respondents are valid.

6. Question 6 asked "How many cases of unjustified dismissals can you recall during your entire career in education? Two hundred thirty-five out of 335 respondents knew of none. One in four knew of at least one case. School board secretaries gave the smallest response of those knowing a case of unjustified dismissal. Three out of thirty-three responding knew of a case each.

Although only twenty-five per cent of the respondents knew of a case, there is an indication that a considerable number of teachers may have been dismissed without adequate procedures. Due process seemed to be needed.

Comparisons between schools are difficult. The larger the school, the more likely teacher groups tend to be organized. Smaller schools may take relatively more beginning teachers. Teachers are also a relatively mobile group. Of the small school respondents, thirty-five per cent knew of an unjustified dismissal. This was followed by respondents from middle-sized schools with twenty-four per cent. Large schools were last with twenty-one per cent. Table 10, page 64, shows the responses.

7. One hundred thirty-seven respondents out of 335 had specific

suggestions for changing the tenure law. Twenty-one suggested lengthening the probationary period. Fifteen felt that dismissing a teacher was too difficult. Eleven felt probationers needed greater protection.

Many comments reflected a general lack of understanding of the tenure law. A "wait and see" attitude was also apparent. Superintendents gave the largest number of suggestions with fifty-three per cent making one or more. Elementary probationers gave the fewest suggestions with twenty-two per cent responding. See Table 14, page 73.

Small schools' respondents replied at a twenty-nine per cent rate, and large schools had forty-seven per cent offering suggestions for changing the tenure law.

8. Question 8 of Questionnaire I requested "a comment or two that reflects your views on tenure." There were 134 positive comments, with fifty not commenting.

Twelve of thirty-two school board secretaries gave negative responses. This was the only group with as much as one third with negative comments. Superintendents were equally divided into the four types of answers. Tenure teachers were the most positive with fifty-one positive comments and twelve negative.

All three size categories of schools had more positive than negative responses. Large schools had a slightly larger proportion of respondents who gave negative answers than did small and middle-



sized schools. See Table 15, page 75.

### Conclusions for Questionnaire I

Supervision (Table 3, page 51); About half of those responding thought supervision had not changes as a result of mandatory tenure. Over forty per cent of the respondents thought supervision had improved. It seems warranted from these facts to state that supervision for many teachers has not improved. But, for a large group tenure has improved supervision.

Elimination of Inadequate Teachers (Table 4, page 53): The evidence from this research indicates that tenure has increased the difficulty of eliminating inadequate teachers. (Other factors from this study indicate there are few inadequate teachers. Voluntary resignations plus non-renewal of probationers' contracts have a salutary effect. See Tables 7, 8 and 9; also Tables 16, 17 and 18.)

Teacher Security (Table 5, page 55): Teachers are clearly more secure with the addition of tenure rights.

Upgrading the Profession (Table 6, page 57): Forty per cent of the respondents believed that tenure had improved the profession while forty per cent saw no change. In balance, one might conclude that the profession has improved as a result of tenure because those respondents who believe it is better equal the number of those who were neutral, greatly outnumber those who were negative.

Inadequate Teachers (Table 7, 8 and 9, pp. 59, 60 and 61): Since over half the respondents answered positively, (Knew of one or more inadequate teachers) the study showed that there are some teachers

who should not be teaching. This makes a compelling argument for a probationary period and for better supervisory practices. Tenure offers both of these opportunities.

Unjustified Dismissal (Table 10, page 64): Unjustified dismissals were too frequent. When twenty-three per cent of the respondents indicated a knowledge of at least one case, great tension was often provoked. Tenure provides for judicious dismissal.

### Conclusions for Questionnaire II

Fifty-one superintendents of fifty-nine districts that had tenure under the 1937 optional tenure law replied to Questionnaire II. Twenty-six believed that tenure had made no difference in the quality of teaching performance in their district. Seventeen thought the performance was higher. Two felt the performance was lower. Six gave other answers.

It is clear that most superintendents who had had experience with tenure under the 1937 law were neutral about tenure improving teaching performance. A significant number, however, felt that tenure helped to improve performance. Only two felt tenure lowered performance.

### Conclusions Regarding the Interviews with the Tenure Commission

Interviews with the Tenure Commission indicated a lack of understanding of the law by all concerned groups. Cases are rarely decided on the question of teacher competency. Most cases are decided on



points of law. The law of tenure must be carefully administered to be effective. The Tenure Commission must decide according to law.

### Conclusions Regarding Interviews with Michigan Education Association Representatives

Herbert Surtman and Donald Giese of the Michigan Education Association confirmed the impressions that individuals of the Tenure Commission had given: Knowledge of the operation of the tenure law is the greatest problem at present. The stress of their conversation was that good procedures for dismissing inadequate teachers and protecting good teachers from capricious dismissal are vital to the profession.

### Conclusions for Questionnaire III

Questionnaire III was designed to find out how the 1964 Michigan Mandatory Tenure Law operated during the first year ending July 1, 1965. The results are these: 1. A very small number of probationary teachers are being asked to serve a third year of probation. Forty-one teachers out of fifty-four schools with total staffs of about 12,000 teachers were placed on third-year probation. This indicates a reasonable effort to help doubtful teachers to succeed. If a third year of probation is to be required, the Tenure Commission must be notified. This indicates an effort to help marginal teachers succeed.<sup>1</sup>

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<sup>1</sup> For example, if five per cent of the 12,000 teachers were completing their second year of teaching this would mean about 600 teachers finishing their second year of probation. Forty-one, or about six per cent, of this number were asked to serve a third year of probation.

Thirty-six first-year probationer's contracts were not renewed while thirty second-year probationers were refused new contracts. These are small numbers, but sufficient to indicate that probationary teachers are being screened.

Among the fifty-four schools represented, twenty-eight tenure teachers were either dismissed or encouraged to leave their positions and did so. This shows that considerable effort is made to prune the profession of undesirables even among teachers who have tenure status. In reverse, it seems to indicate once more, that few undesirables stay in teaching.

Fifty-four superintendents out of sixty queried responded to Questionnaire III. Twenty-six per cent of these thought that late resignations by teachers was a problem. Four hundred seventy-seven teachers on staffs totalling about 12,000 teachers gave written notices of intent to resign prior to the sixty-day deadline prior to September 1 in 1965. This is less than five per cent. While it does give some superintendents problems replacing them in a scarce market, it certainly is not an unreasonable figure. Pregnancies, opportunities for better positions and for continuing education, husbands changing locations and numerous other possibilities would make it seem strange if resignations were not in evidence in our socially and physically mobile culture.

Summary of the Appeals to the Tenure Commission During the School  
Year 1964-65

Five cases were appealed up to September, 1965. Three cases had not yet been heard as of this writing. The Ann Lash case indicated one minor defect in the law: A teacher who has been out of teaching for several years may not serve a second probation in the same system. The solution is to take a chance on such a teacher, or let the teacher go to another system where a one-year probation can be required.

The second case, of Bobby Jack Young, reiterates the point that a probationary teacher goes under tenure provisions when he is not properly notified, sixty days prior to the close of school, that he will not be rehired.

Conclusions Regarding the Hypotheses

The original hypothesis restated is: Mandatory tenure is desired by teachers, administrators and school board members because of a desire to improve teaching and to give greater security to teachers. Whether tenure improved teaching drew a mixed response depending upon which minor hypothesis is examined. Most respondents believed that supervision of teachers had not changed although a large group thought supervision had improved. Eliminating poor teachers was thought to be more difficult by most respondents. Inadequate teachers, however, were found to be rare. The typical respondent knew either none or not more than one.

It was clear that all groups of respondents believed that teachers were more secure with tenure protection. Arbitrary dismissals had been numerous enough to be a source of anxiety for many. It was also clear that superintendents of schools, where tenure had been experienced previous to the mandatory tenure act, believed that tenure had not affected teacher performance adversely.

It seems clear that tenure gives greater security. But it is doubtful that tenure will improve teaching. No doubt, in some specific instances, greater security itself will improve performance. But the respondents in this study believed that supervision had not improved and that poor teachers would be more difficult to eliminate.

School size may have an effect on the attitude of educators toward tenure. The results of this research show some variations. But the mobility of teachers and board members was not controlled. The results are inconclusive.

#### Recommendations - Major

1. Boards of education would do well, when possible, to retain a lawyer with continuing knowledge and skill in tenure matters and with school law.
2. Administrators must continue to understand that the profession cannot rid itself of an incompetent without continued tact and courage in hiring and dismissal via good administrative procedures. Boards of education have a right to expect this from their administrators and so do teachers.

3. The probationary period should be lengthened to at least three years. An extra probationary year should be added when requested in writing to the tenure commission and the teacher notified.
4. School boards and teachers should continue to realize that both groups have the education of children as their common concern. Incompetent teachers are not wanted by either group nor by school administrators.
5. An adequate supply of teachers is needed to make tenure work best. All groups interested in the welfare of children must continue to work to improve the image and prestige of the teaching profession. The continued upgrading of working environments and salaries to attract men to teaching is vital. The screening of teachers is not too practical when the supply is a drizzle.

#### Recommendations - Minor

1. Attorneys should be retained by any party seriously involved with a tenure problem.
2. Teacher education courses should include the study of tenure at both the undergraduate and graduate levels.
3. Minor adjustments in the law should be made after another year of experience. Some areas of concern will vanish through increased understanding of the law and improved practices in the profession.



4. If tenure cases should greatly increase, an executive secretary with advisory powers should be provided for the tenure commission. He could be given the status of a referee to get cases settled before they reach the Tenure Commission--at the school board level or sooner. He could advise on procedural matters and reduce cases coming before the Tenure Commission. The Commission should hear cases involving competency rather than procedural problems.
5. Probationary teachers should not be given the right to appeal to the Tenure Commission. The law should be amended to require a local board to give a public or private hearing at the probationer's request. Local tenure teachers should present their recommendation at or prior to this hearing.
6. After three or five years, this dissertation or parts of it could be redone to see if tenure is still working well.
7. The tenure law should apply to all community college teachers or none. Presently, it applies only to those colleges connected to a public school system.

Tenure will continue to have effects on the educational scene in Michigan. It will, no doubt, strengthen teachers in their efforts to maintain a reasonable economic status in any economy of competing power groups. It may help an ambivalent society, which regards youth as its most precious asset, to realize that primitive times have

passed and that educating children is not a menial task to be done by women without pay. Better organized, secure teachers will be able to strengthen the position of boards of education and the legislature in their efforts to provide good standards of education for children in a society beset with other problems and attractions.

## CHAPTER VI

### TENURE AND COMPULSORY BARGAINING IN MICHIGAN

#### Justification for Adding this Chapter

This study of tenure in Michigan was nearly finished in the summer of 1965. Michigan was just getting adjusted to this major event when compulsory bargaining was added to teacher's rights. The impact of these two changes (tenure and bargaining rights) was so sudden and so powerful that it seemed necessary to consider them together. In this chapter an analysis of the present compulsory bargaining position in Michigan and the relationship of bargaining to tenure will be presented.

#### Introduction

A number of events, ideas and forces conspired to create an amazing change in Michigan education in 1964 and 1965. The Tenure Law, passed by the legislature in the spring of 1964, went into effect with the opening of school that fall. Then, in the spring session of 1965, the legislature passed a compulsory bargaining law with mandatory and state-wide effect.

Teachers had long been talking about gaining tenure as pointed out in Chapter I. Professional Negotiations was adopted as an official policy and goal of the National Education Association during the national

convention in Denver in 1962.<sup>1</sup> Since education is a state function, both of these objectives of teachers had to be achieved either through state or local action.

Michigan accepted, by referendum to the people, a revised constitution on April 1, 1963. This constitution caused redistricting of both the Senate and House of Representatives. The suburban areas gained more representation while the rural and northern areas of the state lost. This redistricting coupled with the Johnson landslide of 1964 gave the Democrats large majorities in both houses of the Michigan Legislature. It is generally thought that the city Democrats are more labor-oriented than rural Republicans in Michigan. In addition, Michigan's Republican party was generating a more moderate, liberal image under the leadership of Governor George Romney.

Swiftly the major forces mentioned above responded to make the Michigan Education Association and the American Federation of Teacher lobbies more effective. Thus, by the fall of 1965, teachers, with new tenure protection, found themselves legally authorized to bargain with their school boards.<sup>2</sup> Public Act 379 and Public Act

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<sup>1</sup>Many teachers and observers are not able to distinguish the difference between professional negotiations and compulsory bargaining. The main difference is that with negotiations, appeals from impasse are to some source other than the State Labor Mediation Board. Sanctions rather than strikes are the method of gaining goals in difficult situations.

<sup>2</sup>It should be noted that President Kennedy's 1962 Executive Order 10998 gave federal employees the right to bargain. It seemed that the Democratic philosophy embodied in the Wagner Act in 1936 was now to be applied to the rapidly expanding public sector of the economy.

282 compelled school boards to bargain with teachers requesting it, and authorized the State Labor Mediation Board to mediate disputes when requested.

These laws were not exactly what the Michigan Education Association had been lobbying for. All through 1963, 1964 and 1965 the MEA had stoutly maintained that Professional Negotiations, not compulsory bargaining, was the only way for teachers to work with school boards. Following the lead of the National Education Association, a continued distinction was made between Professional Negotiations and collective bargaining. Articles in the Michigan Education Journal, by several of their key personnel, made very clear that the MEA felt that Compulsory Bargaining was wrong for the education profession.<sup>3</sup> Indeed, the Adam's article indicated that fourteen schools had already adopted professional negotiation procedures on the local level. Numbers of schools throughout the state were moving in the direction of local agreements to negotiate with their school boards. It appeared that the idea of "professional negotiations" was progressing.

By fall, 1965, however, it was clear that in Michigan the distinction between Professional Negotiations and Compulsory Bargaining would no longer be an issue. E. Dale Kennedy, Executive Secretary of the Michigan Education Association, speaking

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<sup>3</sup>See, for example, Donald Giese and Gerald Simmons, "PN Gained by Fourteen Schools," Michigan Education Journal, December 1, 1964, pp. 6, 7 and 41; and Richard Adams, "A Must: PN Legislation for Michigan," Michigan Education Journal February 1, 1965, pp. 18-19.

for the Michigan teachers said, "These laws put into our hands what we have been asking for. The climate is right to do what we are going to do. We must move now, everywhere. We can't wait for the timid, the weak of heart, the uninformed or the afraid."<sup>4</sup>

The legislature had amended Public Act. No. 282 (the State Labor Mediation Act) through two companion House Bills 2953 and 2954. The MEA leadership was satisfied with a law that required local boards to recognize local bargaining units and that gave local units the right to negotiate. But negotiate was now a phrase interchangeable with compulsory bargaining. LABOR LAWS HAD BEEN AMENDED TO INCLUDE TEACHERS. The legislature had compelled the Michigan Education Association to accept this alternative to the passing of a new Professional Negotiations Act for teachers.<sup>5</sup>

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<sup>4</sup>No Author, "Preparing for Negotiations" Michigan Education Journal, October 1, 1965, p. 2.

<sup>5</sup>E. Dale Kennedy "The Role of School Executives", Michigan Education Journal, January 1, 1966, p. 18. (The House Labor Committee would not report out House Bill 2450, the MEA Professional Negotiations Bill.)

An Analysis of the Michigan Compulsory Bargaining Laws--Public Acts 282 and 379<sup>6</sup>

House Bill 2954 became Public Act 282, known as the Michigan Labor Mediation Act of 1965. This changed the Michigan Labor Mediation Act of 1939 (P.A. 176). The change made the services of the Michigan Labor Mediation Board available to public employees. Any party to an impasse can call on this board to mediate the problem.

House Bill 2953 became Public Act 379. It changed Public Act 336 of 1947 known as the Hutchinson Act. Public Act 379 is now known as the Public Employment Relations Act of 1965. The main provisions of this revision to the Hutchinson Act are:

1. The automatic penalties for participating in strikes were deleted. The right to discharge an employee for doing so remained.
2. Public Employees could now organize for collective bargaining.
3. Public Employers must bargain, in good faith, with employees if requested.
4. The right of exclusive representation by the majority of employees is provided for as well as the adjustment of grievances by individuals. Wages as well as conditions of employment are bargainable.

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<sup>6</sup>This overview is based primarily upon the Labor Relations Handbook for School Boards and Superintendents published jointly by the Michigan Association of School Boards and the Michigan Association of School Administrators, February 1, 1966. No author is given, but it is known to be written by an attorney in this field. Copies may be secured from Julius Barbour, Michigan Association of School Boards, 1019 Trowbridge Road, East Lansing, Michigan 48823.

5. The State Labor Mediation Board will determine, through an election, if necessary, who shall represent employees. Recognition by stipulation is provided for.
6. Written agreements between the parties are authorized.
7. Hearings for teachers are provided for in unfair labor practices.<sup>7</sup>

Teachers now had the right to recognition by school boards and the right to bargain. Negotiation procedures that had been informal and vague were now formalized by law into collective bargaining.

Supervisors and executives are excluded from the bargaining unit of employees by this law in Michigan. It seems accepted generally that principals would be excluded. In at least one case, however, principals were included.<sup>8</sup> Supervisor is not defined in the State Act and a legal determination will probably have to clarify this matter.

### The Relationship of Compulsory Bargaining to Tenure

Tenure preceded bargaining in Michigan by about one year. The implementation of tenure was causing concern in many places during the late summer of 1964. Compulsory bargaining, while passed in the spring of 1965, did not have great consequence until spring and summer of 1966. It was not until the fall of 1965 that teachers and school boards understood the law sufficiently to begin negotiations. By spring, 1966, a few schools were having serious

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<sup>7</sup>Ibid., pp. 4, 5 and 6.

<sup>8</sup>Bedford Schools, Temperance, Michigan



bargaining problems because some teacher negotiating units were determined to have master contracts prior to summer vacation. By late August, 1966, about a dozen schools were in serious difficulty because no master contracts had been concluded between the bargainers.<sup>9</sup>

One of the primary problems regarding tenure and compulsory bargaining is the relationship of individual teacher's contracts and the master contract. There are complicating relationships between all four--tenure, individual contracts, compulsory bargaining, and master contracts.

Individual written contracts between teachers and school boards are required by Michigan School Law. They are generally issued on a yearly basis during the spring of each year. Tenure rights rely, to some extent, on these individual contracts. For instance, a probationer must be notified 60 days prior to the close of school if his contract is not to be renewed. A board which does not intend to issue an individual contract to a probationer must observe this command. Otherwise the probationer will have to be issued a contract. Notice and a statement of reasons are required when discharging a tenure teacher. This notice tells the teacher that his individual contract is terminated. Individual contracts must be in harmony with Tenure Act provisions.

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<sup>9</sup>A master contract is an agreement outlining conditions of employment. It is the result of bargaining between the teacher's recognized unit and representatives of the board. It is a written document.

Tenure, then, is related to individual contracts, but is not mentioned in the laws that created compulsory bargaining. Tenure rights are given by a separate statute. These rights are a condition of work and not a contract. It is presumed that a negotiated master contract could not change the essential nature of tenure law. Neither additional rights nor lesser obligations could be given by a negotiated master contract. Article X (See Appendix F) of the Tenure Act seems to make the above logic clear.<sup>10</sup> Courts, boards or commissions will, no doubt, have to clarify many issues.

However, the most fundamental conflict between compulsory bargaining and tenure relates to the time limit placed on teacher resignations. Tenure law, in effect, allows a teacher to resign at any time 60 days prior to September 1. Some people thought that, in the absence of a master contract, no individual obligation existed. Individual contracts are often not signed until the master contract has been agreed upon. E. Dale Kennedy, of the Michigan Education Association, issued a clarifying memo on January 24, 1966. It was suggested that a clause be added to all individual contracts making clear that individual contracts were subordinate to the provisions of any master contract to be negotiated. But the question of whether a teacher could resign during the 60 days prior to

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<sup>10</sup> In our rapidly changing world, few absolutes seem to hold true. The state tenure commission, the attorney general, the legislature, the courts, the state labor mediation board and all attorneys are human beings. Their decisions are based on interpretation of the laws; these organizations are subject to changing personnel and to changes of opinions.

September 1 has not been clarified.

In addition, the MEA position regarding withholding of services when there is no master contract was stated: "MEA legal position is that going to work without an individual contract violates the school code and that the Tenure Act is an opportunity, not a contract."<sup>11</sup>

This statement confuses the definition of individual contract and master contract. Apparently the MEA holds that without a master contract there can be no individual contract. But neither the school code nor Public Act 379 demands that teachers have a negotiated master contract prior to beginning work during a school year. (A case is pending as of November, 1967, in the Supreme Court, that should answer this question. *Holland Education Association versus Holland Board of Education.*)

Two additional problems make difficulties for those trying to clarify tenure and bargaining problems. (1) Teachers withhold individual contracts by placing them in the hands of one of their organization officials until bargaining is complete; and (2) Tenure teachers are not required to commit themselves regarding individual contracts at any given legal date. In this confused state, boards of education are at a loss to know who is under contract and who will be on the job in September. In most cases, however, the informal contracts between teachers and administrators have resolved this problem. Most teachers, who know they are not returning, have

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<sup>11</sup>Michigan Education Journal News, Vol. 44, No. 3, September 9, 1966, p. 1.

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usually given notice to their employers.

The potential conflicts between tenure and compulsory bargaining law may be summarized:

1. Could items in a master contract supersede tenure obligations?
2. May teachers, who have withheld individual contracts pending a master contract, enjoy tenure law protection?
3. May teachers, who have withheld individual contracts pending a master contract, resign in the 60 day period prior to September 1 without violating the tenure act?
4. May teachers withhold services in the absence of a master contract and still enjoy tenure protection?
5. Can a master contract add or reduce any rights of boards or teachers granted by school law, tenure law or compulsory bargaining law?
6. May a board release a teacher who has refused to sign a contract after the period 60 days prior to the opening of school?

Most of these questions might be answered by knowledgeable attorneys. But since bargaining in the public sector has so few precedents, most answers are qualified or tentative.<sup>12</sup>

One additional relationship should be mentioned. Tenure, no doubt, gave many teachers security enough to participate in compulsory bargaining.

### The Impact of Bargaining on Significant Groups

The Public--Any given board group defined as the general public

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<sup>12</sup>A case involving what is bargainable arose in North Dearborn. The matter was subsequently withdrawn from litigation. Thus, there are still few precedents to go by in many areas of this law.

rarely focuses on anything as a total group. Even in very interesting and important local or national elections, large numbers do not vote. The public, during 1965 and 1966 as a whole, was not very interested in nor particularly aware of the fact that teachers could bargain over conditions of employment. (The withholding of teaching services in the fall of 1967 in many Michigan schools drastically changed this apathy.)

Union and management people in the public tend, no doubt, to reflect the views of their particular interests and understandings. Newspapers have devoted a few background articles<sup>13</sup> to the topic with a considerable number of news stories whenever teachers threatened to or did withhold services pending a master contract. Even in places where considerable tension existed between the bargainers, the public had to sit on the sidelines with no effective way to indicate its feelings. The public might generally be aware of the poor economic position of teachers in the booming economic times of 1965 and 1966. But it was also clear in a number of defeated millage votes that the prospect of higher salaries for teachers was difficult for many taxpayers to be enthused about.<sup>14</sup>

The public taxpayer group will be a very significant party in relation to collective bargaining for both teachers and school boards.

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<sup>13</sup>One of the most complete articles appeared in the Detroit Free Press on Sunday, August 7, 1966, Section B, page 1. The article was written by Mary Ann Weston and Wayne King.

<sup>14</sup>Even in the many elections that passed increased local taxes for operating schools, there were many "no" votes.

Teachers and boards are both aware that few significant economic gains for education will be made without general public support under the present tax structure.<sup>15</sup>

School Boards--The National and State School Boards Associations have issued statements on the topic of collective bargaining. The National School Board statement was in answer to the National Education Association's position in Denver in 1962. The NEA had strongly endorsed the idea of state laws legalizing professional negotiations and the application of sanctions in extreme instances.<sup>16</sup> The chief concern of the National School Board Association was that local control of schools through elected boards might be jeopardized by collective bargaining. The legal authority of boards to control policy might be questioned if forced to negotiate with teachers or to use appeal procedures.<sup>17</sup>

The Michigan School Board Association expressed a number of concerns through its president, Walter Averill, Jr., and Executive Director, Julius Barbour. How could board members possibly

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<sup>15</sup>In Michigan nearly all of the building costs are born by the local school district. A state aid formula equalizes operating costs between districts. On the average, half of a school district's operating costs are paid by property taxes and half by state aid. This varies widely depending on the wealth per child of a district.

<sup>16</sup>Sanctions may be defined as a method of call attention to poor education conditions in a district, state or educational area. It depends for effectiveness on education and public support. It can be an economic and political, as well as moral pressure.

<sup>17</sup>National School Board Association Delegate Assembly, Denver, 1963. Information Services Bulletin, Vol. 1, No. 8, National School Boards Association, Chicago.

find all the time needed to bargain directly with teachers? Did boards have the background necessary to bargain? Where was the money to come from to increase teachers' salaries if bargaining was to be effective for teachers' economic needs? Why had teachers or legislators turned aside the informal procedures of bargaining?<sup>18</sup> It is clear, however, that no massive attack on the law was to be made. If teachers wanted to bargain, then boards and administrators would have to learn to comply with the law. The Michigan Federation of Teachers-Michigan Education Association rivalry, seemingly, was compelling a rapid implementation of the law.

An important question has been repeatedly raised regarding teacher strikes in Michigan. The law states that "strikes shall mean the concerted failure to report for duty." The one school board which tried to use the section of the law which prohibit strikes found it ineffective.<sup>19</sup>

The Michigan law prohibits supervisory personnel from belonging to a local bargaining unit. With this in mind, Walter Averill, president of the Michigan School Board Association, predicted an unusual picture in the future. At a School Board Association meeting in Coopersville, Michigan, on October 5, 1966, he indicated that the

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<sup>18</sup> The Michigan School Board Journals for 1965-66 have numerous references to the problems of negotiation.

<sup>19</sup> In Ecorse, the board fired all of its teachers who went on strike. The action was rescinded later. Few boards would try this remedy in a continuing market of scarce teachers.



Michigan School Board Association would be the umbrella under which each of the school administrator groups would gather. He was saying, in effect, that the Elementary Principals, the Secondary Principals, the School Business Officials, the School Superintendents and their Assistants would leave their affiliate with the School Board Association. This line of thinking could result in important physical and budgeting changes for the MEA which has provided housing and leadership to these groups. The changes seem unlikely to happen. It would be inappropriate for lay board members to affiliate this closely with their employees, the school administrators. Each group requires independence of thought and action. There are strong historic and professional ties among administrators with their State and National Teacher Associations. Nearly all administrators were teachers before they became administrators. These ties will not be cut easily even by a bargaining law that prohibits administrators from belonging to the local bargaining unit.<sup>20</sup>

It is significant that the legislative position of the Michigan School Board Association called for adequate, improved, and long-range teacher salary schedules as necessary to maintain "efficiency in the excellence of instruction."<sup>21</sup>

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<sup>20</sup>On November 30, 1966, the Michigan Association of Secondary School Principals voted to remain within the Michigan Education Association structure for one year, as a statewide administrative district. Out of 579 delegates voting, 493 voted to stay with MEA as a department.

<sup>21</sup>Legislative Position, Michigan Association School Boards, Michigan School Board Journal, February, 1966, p. 7.

Superintendents and Principals --Everyone seems aware that the superintendent is in a pivotal position in relation to bargaining.

Is he the teacher's advocate? Does he speak for the board of education? Is he an advisor to all parties? Does he bargain directly?

Does the size of the school district cause his role to change? Does he speak for the profession, for the public or for the children?

Manning, an erudite school superintendent, believes that directly or indirectly the superintendent is best qualified to bargain and abdicates his effective leadership if he does not.<sup>22</sup>

Some college professors and superintendents believe that the superintendent should be an advisor to both parties in negotiations representing his own professional views and safeguarding the interests of children. Dr. Washburne and Reynolds Seitz are examples of this point of view.<sup>23</sup>

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<sup>22</sup>Manning, William, "Negotiations: The process in Collective Bargaining," American School Board Journal, August, 1966, pp. 14 - 16. This was an address originally given in Grand Rapids on January 19, 1966, at the Michigan Association of School Administrators Annual January Meeting.

<sup>23</sup>Washburne, Carleton, "The Plight of the Democratic Man," from a monthly bulletin of the Mott Foundation and the Flint, Michigan, Board of Education called the Community School and Its Administration, edited by Dr. Clyde Campbell of Michigan State University, East Lansing. Vol. IV, No. 11, July, 1966.

Seitz, Reynolds C., "Collective Bargaining Can Help Achieve Reasonable Agreements." American School Board Journal, November, 1966, pp. 52 - 55.

A third group of "realists" represents what the unions believe about collective bargaining. In their view, the superintendent is the board's spokesman. He is selected and hired by the board. When the board adopts a policy, the superintendent must make that policy as effective as he can. Myron Lieberman, until recently at least, represented this point of view.<sup>24</sup>

A recent bulletin states the view of the American Association of School Administrators regarding the superintendent's role.

"He should be an independent third party in the negotiation process. He should review each proposal in light of its effect upon students and work closely with both the board and the staff representatives in an attempt to work agreement in the best interests of the educational program. His position as leader of the staff and executive of the board requires this. He, or his representative, must carry this role into formal negotiations where, in most cases, with a legal advisor, he will continue to serve as interpreter in difficult communications between the board and the staff. In school systems where such a position exists, he may delegate the actual negotiation to an associate or assistant superintendent or a director of personnel acting under his supervision. In smaller school systems where the superintendent performs all of the functions of a central staff, he will inevitably have to assume the role himself. In no instance should the responsibility for negotiations be delegated outside the profession."<sup>25</sup>

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<sup>24</sup>Lieberman, Myron, Education as a Profession, Englewood Cliffs, New Jersey, Prentice Hall, 1956.

<sup>25</sup>School Administrators View Professional Negotiations, American Association of School Administrators, 1201 Sixteenth St., N. W. Washington, D. C. 20036. 1966, p. 54 (This 58-page booklet is very timely and is an excellent general summary of the complexity of the negotiation process.)

Public Act 379 has severely jarred the traditional concept of professional unity in Michigan as illustrated by the action of the Michigan Association of School Administrators at their fall convention at Mackinac Island on September 18-19, 1966. The group voted to change their articles of incorporation so that it became necessary to be a member of the parent Michigan Education Association in order to belong to the superintendents' association. The vote on a constitutional amendment, to be presented at their January, 1967, meeting to withdraw the superintendents' group from the structure of the Michigan Education Association. The above vote made it possible for those superintendents not wishing to join the MEA in the fall of 1966 to participate in the January vote to withdraw the Michigan Association of School Administrators from the Michigan Education Association.<sup>26</sup> (In January, the superintendents voted 392-106 to withdraw as a department of the MEA.)

In another important instance, administrators have voted to disassociate from the state affiliate of the National Education Association. In California, the Secondary Principals voted to divorce their organization from the California Teacher's Association. This was in response to the CEA revision of by-laws which gave teachers 375

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<sup>26</sup>The Michigan Education Journal News of November 25, 1966, stated that the Michigan Association of Junior Community Colleges voted by a roll call of institutions to withdraw as a department of MEA. The vote was 24 - 3.

seats in their governing body reserving the remaining 25 for administrators. California has a negotiations law.<sup>27</sup>

A major problem for administrators is the matter of who represents the views of principals. Teachers cannot speak for them adequately. Further, they seem barred from membership in the teachers' bargaining unit. The superintendent, with pressures from many places, is often inadequate as their spokesman.

In larger schools, it appears that principals and other closely allied in supervisory capacities may form their own bargaining units to press their own problems. In smaller districts, they might well be encouraged to sit in regularly on board meetings as advisors to the superintendent and thus get their views heard. In many cases, the superintendent will have to do a better job of representing their interests. It is certain that the views of principals regarding all aspects of school operations are imperative if good policies and sound educational programs are to be developed.

A series of brief informal interviews with Michigan superintendents at Mackinac Island in the fall convention of 1966 elicited the following reactions to the question "Would you do away with negotiations?"

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<sup>27</sup>Educational Summary, September 15, 1966, p. 6. A newsletter published by Craft Educational Services, 100 Garfield Ave., New London, Connecticut.

"No, but I am hesitant to join the MEA after 37 consecutive years of membership because of the inherent conflict regarding bargaining."

"No, we can't have a company union. I see no need for enmity, however."

"Yes. The informal method was more professional and we had a better public image."

"No. We stand to gain more in the long run for education by bargaining with teachers."

"No. We have better communication than ever before because it is now necessary that we communicate."

These statements represent some of the thoughts that superintendents have about compulsory bargaining. From a survey of literature and from many conversations, it appears that superintendents are not too happy about face to face bargaining. But one view is that without some new method, such as compulsory bargaining, to bring about higher wages, the teacher shortage will continue because of inadequate salaries and prestige to attract more men into teaching.

The legislature--Events are moving so fast that the views of the Michigan Legislature are an unknown quantity. A Democratic majority was changed in the November, 1966, election to an evenly divided house (55 Republicans and 55 Democrats) and the Senate was also back under Republican control by two votes.

The 1966 legislature that passed P. A. 379 was generally satisfied with its work as far as the majority party was concerned. No major changes were contemplated in this area. The prevailing

attitude seemed to be that some problems were bound to occur since bargaining in the public sector was new. The intention clearly was to let the law alone for a year to see if it would work.

No one can guess how the 1967 legislature will proceed. Some members will be serving for the first time with a myriad of problems to digest. Governor Romney, as the party leader, has not indicated that he will try to overturn the law or drastically ~~after~~ <sup>28</sup> it. Since it is also obvious that teachers want the law, little significant change is to be expected.

Teachers--Very few teacher groups chose not to negotiate. In only one election out of over 400 conducted by the State Labor Mediation Board did employees vote not to organize. Nearly all teachers and school districts within the state are now involved in formal bargaining processes. (Rural schools of eight grades or less are not considered here because one or a few teachers rarely organize.) By October, 1966, there were over 1,000 bargaining units in the public sector in Michigan.<sup>29</sup>

A major ambivalence among some teachers existed because of the labor law that was applied to public employees. The law prohibits management from belonging to the bargaining unit. Under

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<sup>28</sup>The governor appointed a study committee headed by a University of Michigan law professor, Russell Smith, to make recommendations regarding the Compulsory Bargaining laws of Michigan.

<sup>29</sup>These laws include municipal employees too. The statistics in the above paragraph were from notes made of a speech by Chairman Robert Howlett of the State Labor Mediation Board given at Michigan State University September 30, 1966.

Professional Negotiations procedures, the administrators would have been part of the bargaining unit. Some educators were unhappy about the division of the profession by the wording of the law. Their original expectation of a professional negotiations act had not passed. Teachers didn't want to bargain with principals or superintendents and visa versa. The reality of the new situation was slowly coming into focus.

Again there was no evidence that the MEA leadership was contemplating any major revisions in the law. Teachers were having problems negotiating and learning to negotiate. That was to be expected. But local agreements were being made at a fast rate. Salary gains were more than double the usual rate.<sup>30</sup>

The Department of Education--A solidly Democratic State

Board of Education stated in 1965 that teachers should have the right to strike. It is probable that this group was influential in getting legislative approval for extending the labor laws to include teachers.

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<sup>30</sup>Typically, salary gains for teachers raised the base of the single salary schedules as much as \$200 each year during the past ten years. The 1965-66 salary bases were changed by raising them five or six hundred dollars at the base and sometimes by adding an insurance benefit to that. No one is quite sure the exact role a booming, inflating economy had on this 1965-66 bargaining year. It certainly had a major effect.

It is also worth noting that under the salary schedules obtained during the past few years, each step of some yearly schedules calls for a slightly higher increase than the preceeding year. A \$500 raise at the bottom of a 12-step schedule could mean \$750 at the top.



Thomas J. Brenman, former Chairman in 1966, of the State Board of Education is a lawyer. He was a founder and a member of the executive committee of Local 4000, Communications Workers of America. His basic attitude on compulsory bargaining may reflect to a degree the State Board of Education. The following is a paraphrase of a talk he gave at a Statewide School Employee-Management Information conference held at Michigan State University on September 30, 1966.

Negotiations will begin again soon. Let us create conditions of psychological friendliness for bargaining to be fruitful. Personalities should not be issues.

Education has a key role in our culture and the Department of Education has an interest in the total affair including negotiations.

The Michigan negotiations act may be the vehicle to make Michigan a showcase for the solution of educational problems.

We are not going to solve the problems of education when truck drivers earn more than teachers. This will require fiscal reform. Teachers should be consulted regarding school problems. Boards must not give up all prerogatives, but must find areas where teachers can help.

Boards, who bargain, don't have to check with headquarters whether an agreement is all right as in private industry (making it easier). In industry, the pioneers fought over basic inequities. More help for bargaining is available today. The inequities are more subtle. Teachers want recognition of their place in the system, not just economic gain.

The strike is not as acceptable today and is considered unnecessary. Public strikes are not irresponsible. But relations to the public are critical. Teachers should have the right to strike.

Mr. Brennan's statements were moderate and honest. He revealed a good grasp of the total reality of the educational problems in regard to economics, psychology and power.

The State Board is doing a great deal to provide education in this area of bargaining. Numerous meetings and workshops have been held. Michigan State University's School of Labor and Industrial Relations has been contracted by the State Department of Education to provide courses and workshops to fulfill any reasonable requests by teachers, administrators and school boards.

Dr. Ira Polley, the new State Superintendent in Michigan, addressed the same conference just footnoted. His remarks are paraphrased below:

Teachers must first be citizens in order to teach. Militancy by teachers is a hopeful sign. (He implies that the forceful articulation of the needs of teachers is good citizenship.)

The Department of Education has an informational role. We are not arbitrators or negotiators. The State Board, in a unanimous view, feels that teachers should have the right to organize and bargain.

The State Board on June 5, 1966, urged all parties in negotiations to use restraint and to keep schools open for children. The State Labor Mediation Board and fact-finding commissions are to be used when necessary. Where facts are available, common sense should prevail.

The State Board of Education had a Republican member after the November, 1966, elections. But its course is set. Teachers will continue to bargain.

The Michigan State Labor Mediation Board--The Michigan State Labor Mediation Board has two functions prescribed by law. It regulates labor laws and it mediates disputes. Regulation may be a matter of enforcing the law while mediation is voluntary for those asking it.

Chairman Robert Howlett of the State Labor Mediation Board spoke on numerous occasions throughout the state during the critical implementation of the Michigan Public Employee Relation Act of 1965. Below are paraphrased some of his major points in speeches at conferences at Mackinac Island on September 20, 1966, and at Michigan State University on September 30, 1966.

People have always wanted to share in decisions affecting their working lives. Eleven states have teacher bargaining laws; ten other states allow public employee bargaining.

There are more than 1,000 public bargaining units in Michigan. We had 119 unfair labor charges and only 15 strikes during this crucial year of implementation.

The main troubles this year were lack of experience, paternalistic attitudes of boards and the feeling among a few that the best way to get action is to strike.

Negotiation is a necessary dialogue. But the idea is to improve communication not to see who can win.

Only one of the 15 strikes did not include teachers. The City of Lansing employees struck in the only case outside of education. The law seems clear that strikes are illegal. Elected judges are reluctant to get involved. In a Genesee County case, the judge said the penalties are in the law, therefore, the court would not issue an injunction to stop a strike.

We have changed our minds on who should bargain for the board. Since teachers help elect board members,

they tend sometimes to believe that the superintendent is their adversary and the school board is their ally. We now believe that the board should be represented at bargaining sessions.

In the event that teachers refuse to work because of a lack of a master contract, our curbstone opinion is that this is a strike. This remains for the courts or the legislature to clarify.

It would be wise to place voluntary arbitration in the master contract. Voluntary because boards cannot give up their legal responsibilities. Arbitration is much less expensive than going to court.

The SLMB will use lists of arbitrators to act when fact finding is requested. Our own personnel of about 15 mediators will then be free to mediate and will not be held prejudiced in later decisions.

### Some Consequences of Compulsory Bargaining

When Public Act 379 became a law in Michigan, several consequences followed. Administrators were no longer welcome to attend chapter meetings of the local teachers' association. A great deal of local chapter time now was devoted to organizing and developing a bargaining position. Master contracts covering many areas of employment conditions were being negotiated. Insurance benefits, salary schedules, classroom loads, school calendars, job specifications and extra-curricular assignments were among those areas being negotiated. A potential communication problem may well develop between administrators and their teachers. What matters raised at faculty meetings might be a cause for a charge of unfair labor practices? This presently is unknown. Teacher loads, budget problems, millage elections and

faculty assignments might be examples.

A second important fact is emerging. Teacher political power is coming into play more strongly than ever. The day of the politically indifferent teacher is passing. Teachers now are directly confronted with the fact that about half of their salaries (in Michigan) are determined by legislative appropriation. The great burden of lobbying has been partially removed from the superintendents and state educational leaders who had been doing it almost alone (often ineffectively). A politically informed and united teacher's group will be increasingly influencing the election of state legislators.

A third important factor that will emerge is the public relations problem of the teacher groups. Do children come first? Should teachers be paid more than laborers? Should teachers be paid more for a short work year? What standards of performance should the public expect of a teacher? What is the definition of a teacher's job? Local millage for operation will not be voted by a community that does not respect its teachers. Teachers may now be more directly confronted with their public image.

The role of the superintendent is changing. He no longer feels the responsibility that he formerly did to guide all the variables in the education milieu. Responsibility for both finance and teacher images are now better distributed among the entire staff.

The superintendent now knows clearly what he had only vaguely recognized before. He is responsible to the board of education and

the community for educational leadership. The leadership for the professionalization of teaching is now more directly upon teachers. This will cause conflicts. Should boards of education relinquish some of their responsibility for overall direction and control of community education? Will the bargaining process blunt the superintendent's leadership with the staff?

There could be real difficulties in communication resulting from the fact that everything seemingly is subject to bargaining. In addition administrators are more liable to be accused of unfair labor practices. An honest change in a teacher negotiator's assignment could cause a problem. A fifth grade teacher, who is bargaining, and happened to be assigned a different classroom or grade level the next year, might accuse the administration of harassment.

In the process of bargaining, the small school superintendent will have a difficult dual role. This role may be more difficult than his previous responsibilities. He has always tried to reconcile conflicts within the staff, board and community. In his role as bargainer for the board, he will be in a sensitive position directly related to the educational program. He may continue to struggle for better education for children through intense and honest communication with all segments of the staff and community. Even in large school systems, he will be responsible for this role though he may delegate direct bargaining to one or more assistants.

### Unionism

There is a problem of whether teachers will use labor union tactics to gain their ends. Threats, strikes and picketing are such examples. These tactics could lower their professional image. Will teachers allow union stewards to represent their views and interests?

It may be that after some initial experiences, teachers will continue to do those things which raise their professional image as well as their pay levels. This will not preclude some intense bargaining situations and some unprofessional acts by some of the bargaining forces. There will always be communication problems. It seems reasonable to believe that teachers desire a professional image.

No one is sure of what bargaining will do for teachers. Those who believe in a philosophy of unionism will probably respect teachers more. Those who believe only in the rights of management will be upset. But the responsibility of making teaching a worthy occupation definitely rests with those who have the most direct interest--the teachers. These teachers will hopefully learn that a strong well-informed administration will need to retain management control for the board and community if student as well as teacher interests are to be served best.

If decisions as to what, when, and how to teach are more directly influenced by teacher specialists, education for children could be enhanced and a giant step made toward making education a true

profession. This would be especially true if research efforts continue to be strengthened and the results brought to bear in the learning environment.

### Professional Practices Acts

Another issue should be mentioned. The teachers of the nation are improving their economic and security positions through legalized bargaining and tenure laws. Some philosophers of teacher organization movements believe that professional status will come, however, only when teachers take the third step. In their view, legislatures should be persuaded to pass laws which put the teaching profession in charge of entry and continuance in the profession. These are generally known as Professional Practices Acts. Twenty professions in Michigan already have this right.<sup>31</sup>

Should this come to pass, the use of substandard or temporary teaching certificates would come into question. Classrooms without a properly licensed teacher would possibly be closed. In this manner, teachers could force a public, largely indifferent to their salary needs, to pay enough to attract people into teaching. It seems fair to say that teachers should arrange a more complete working year if they are to reach pay levels they desire. The public will be very reluctant and critical of a system that pays large numbers of teachers salaries above the lot of working men and then gives them

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<sup>31</sup>Leasure, Melvin, "Threshold of Teacher Opportunity" Michigan Education Journal, January, 1966, 1. 42.



vacations, of nearly two weeks at Christmas, a week in spring and nearly three months in the summer.

### Summary

The indications on both a national and state level are clear. Negotiations or compulsory bargaining is here to stay. Led by an executive order of President Kennedy and following a National Education Association resolution in Denver in 1962, teachers and other public employees are now gaining the right that private employees fought for and gained in the United States during the 1930's.

In a democracy, operating with the context of competing power groups, the long-range results from negotiations will be good. The public sector is increasingly recognized as a productive part of the general economy. Education is an investment in the most important resources that a productive nation has--the minds of its people. When labor could not bargain, employers were often unwilling to share resulting abundance with their workers. An abundant economy, with the wealth in the hands of a few, soon is unable to operate. With no purchasing power, production must stop.

But the bargaining rights in the private sector were not applied to public employees. The economy has long been distorted by this problem. Blue collar workers are entitled to a good standard of living. But the often better educated white collar workers, with teachers as an outstanding example, earned less than truck drivers and produc-

tion workers. The fact that they worked a shorter year was emphasized by some to excuse the smaller salaries. It was convenient to forget that many invested four or five years of their lives in college to become teachers. These were often years with poor earnings and considerable expenses. The normal desire to marry and begin a family were often sacrificed. Because of low pay, education was dominated by women for whom the salaries were considered relatively good in our double standard culture.

In neither the private nor the public sector of the economy can employers give what they do not have. Those who choose to bargain with their employers have eventually to face this fact. It becomes employees to help management be more efficient and to do those things which increase the profits or money supply to insure adequate pay levels.

In Michigan, a constant split between the executive branch of the government and the legislature has delayed tax reform for about twenty years. The property tax, based on an agrarian society, has long been discriminatory. The legislature was reapportioned under the new Michigan Constitution that became effective in January, 1964. In November, 1966, the State Senate went Republican with a Republican Governor already in office. The House was split 55 Democrats and 55 Republicans. But tax reform is in the air and many believe a state income tax will be passed this year (1967). This reform is necessary if the public sector of the economy is to get a fair share in the general

prosperity of the state and nation. (The income tax passed and took effect October 1, 1967.)

If the roles that demand more education in our culture (politicians, police work and teaching are examples) can attract the quality of people required, the level of our total culture will be raised. In addition, there will be more room in less intellectually demanding roles in industry for some of the presently unemployed. Our distorted economy will come back into a better balance.

It may be expected that bargaining will be difficult in the year ahead. Teachers made real gains during the past year and will be expecting to keep up the progress. But many school boards extended their budgets to deficit levels. Unless the state can provide greater state aid or local millages can be increased, boards will have nothing to increase salaries with. Communication on issues and de-emphasis on personalities will be in order.

### Recommendations

It is clear that lawmakers neither intended nor saw any close connection between tenure and bargaining. Educators generally do not think of the two laws in the same context. The philosophy behind each has a separate strand--tenure gives security from arbitrary dismissal; bargaining gives the right to share in the vital decisions affecting teacher working conditions. There are two major points that should be cleared up:

1. The tenure law should be amended to provide for the return of individual contracts at a specified date each spring (like April 15). Teachers could still resign by letter up to 60 days prior to September 1. It could also be stated in the amendment that any individual contracts would not restrict benefits negotiated in master contracts if not contrary to law.

In a court case involving Coleman, Michigan teachers, the Circuit Court held that an April 15 date for return of individual contracts, negotiated as a clause in the master agreement was binding. (June 1967)

Boards of education and administrators would then be placed in a more realistic recruiting position. At present the withholding of individual contracts prior to settling on a master contract seems to negate the tenure law. Tenure law says that teachers may not resign without mutual consent after 60 days prior to September 1. But if teachers have not turned in individual contracts, are they under any obligation of tenure?

2. Strikes should either be legalized or appropriate penalties made mandatory. Such a penalty might include loss of tenure status. Teachers must not deliberately violate laws if respect for law is to be taught. A remedy for teachers dealing with recalcitrant boards is already provided--appeal to the State Labor Mediation Board. The Holland case presently (November, 1967) before the Supreme Court should answer the question of whether withholding services in the absence of a master contract is legal or is a strike.

APPENDIX A

Letter to Sixty Superintendents

to Instruct the Distribution of Questionnaire I

April, 1965

Your school is part of a selected sample of Michigan schools for a study of teacher tenure. The quality of this study depends upon getting a good return from the sample.

Would you fill out one of the questionnaires and return it in the self-addressed stamped envelope? It should take only about four minutes. Schools will be identified only by size and persons will be identified only by types indicated on the questionnaire.

Please place the remaining questionnaires in the appropriate school mailboxes as indicated. Your assistance with this research project will be greatly appreciated by a fellow educator.

Sincerely

Jack E. Meeder  
Elementary Principal, Potterville, Michigan  
Superintendent Elect, Montague, Michigan

List your name and address here  
if you want an abstract of this  
study.

APPENDIX A

Cover Letter for Questionnaire I

Potterville, Michigan  
April, 1965

You are part of a small selected sample of educators and school board members chosen to answer this questionnaire on teacher tenure. It is important to this study that your particular answers be given even though no individual or school district will be identified in this study in relation to specific answers given.

Will you take a few minutes to answer this questionnaire and return it in the self-addressed stamped envelope?

Professionally yours

Jack E. Meeder  
Elementary Principal, Potterville, Michigan  
Superintendent, Elect, Montague, Michigan

P. S. The questionnaire should take no more than four thoughtful minutes. Won't you do it now before you forget?

## APPENDIX A

## TENURE QUESTIONNAIRE I

April, 1965

School Size \_\_\_\_\_

- I. Please give this questionnaire to the person who is listed first alphabetically by last name, who falls in the group circled below:

Elementary Probationary Teacher, Elementary Tenure Teacher, Secondary Probationary Teacher, Secondary Tenure Teacher, Elementary Principal, Secondary Principal, Superintendent, School Board Member.

- II. Please underline the answer that seems most appropriate as you consider this year's experience with the new tenure law.
1. Supervision of teachers is: a. better b. no change  
c. no opinion d. worse
  2. Inadequate teachers are: a. more easily eliminated  
b. no change c. no opinion d. more difficult to eliminate
  3. Teachers are: a. more secure b. no change c. no  
opinion d. less secure
  4. The teaching profession is: a. upgraded b. no change  
c. no opinion d. downgraded
  5. How many teachers are on your staff that you feel should  
not be teaching \_\_\_\_\_?
  6. How many cases of unjustified teacher dismissals can you  
recall during your entire experience in education \_\_\_\_\_?
  7. If you see defects in the present tenure law, please describe  
briefly:
  8. Write a comment or two that reflects your views on tenure:

## APPENDIX A

Questionnaire III (to the Original Sixty Superintendents who  
were sent Questionnaire I)

Potterville, Michigan  
June 28, 1965

School Size \_\_\_\_\_

To Sixty Selected School Superintendents:

I am in the final stages of a dissertation on Michigan Tenure. I have surveyed the opinions of 420 members of the profession (including you) and 60 board secretaries. The superintendents of 59 districts which had tenure under the local option law have been questioned. Strategic people, like the tenure commission members, have been queried.

Your school is among the same stratified random sample of 60 which earlier responded so well to my tenure opinion questionnaire (329 responses).

The questions below will add tremendously to this research. These facts when added to what have already been gathered give a clear picture relating to tenure as it now stands. This letter is without a heading so that this information will not be identified except by size of school.

Please let me impose upon you once again for the following answers and return this in the enclosed stamped self-addressed envelope.

Sincerely,

Jack E. Meeder  
Elementary Principal, Potterville, Michigan  
Superintendent Elect, Montague, Michigan  
Graduate Student, M. S. U.  
(Dr. Clyde Campbell, Committee Chairman)

1. How many teachers were placed on third year probation? \_\_\_\_\_
2. How many first year probationers were not offered contracts? \_\_\_\_\_
3. How many second year probationers were not offered contracts? \_\_\_\_\_
4. How many tenure teachers were dismissed? \_\_\_\_\_
5. How many tenure teachers were encouraged to leave and re-signed? \_\_\_\_\_
6. How many teachers gave written notice of the intention not to return 60 days prior to September 1? \_\_\_\_\_  
Was this a problem? \_\_\_\_\_
7. Any suggestions or comments?



APPENDIX B

Questionnaire II (to 59 Superintendents Whose Districts were  
Tenure Districts Prior to 1964)

Pottersville, Michigan  
April, 1965

I am trying to find out for a doctoral dissertation on Michigan Teacher Tenure, how experienced administrators feel about tenure. Since your district is one of 59 districts in Michigan which had tenure prior to this year, your comments are of particular value. If you are new to this position, perhaps one of your staff would answer these two questions and return this in the enclosed self-addressed stamped envelope. Your answer will help make this research really meaningful. I have not identified this letter with a heading so that you will remain anonymous.

Professionally yours,

Jack E. Meeder  
Elementary Principal, Pottersville, Michigan  
Superintendent Elect, Montague, Michigan

- I. Has the 1964 Michigan Teacher Tenure Act made any significant changes for your district (which already had tenure)? If yes, describe briefly:
  
  
  
  
  
  
  
  
  
  
- II. Has tenure had any affect on the quality of teaching performance in your district? Yes or No (circle one). If yes, is it a higher or lower quality of performance for the staff as a whole? (circle one) Higher or Lower. Any further comments?

## APPENDIX C

Numbers of Teachers and Enrollments of the Schools Surveyed by Questionnaires I and III  
(Source--Michigan Education Association Salary Schedule Study, 1964-5)

	Small schools Less than 100 teachers Size one		Middle-sized schools 100-200 teachers Size two		Large schools Over 200 teachers Size three	
	Enrollment	Teachers	Enrollment	Teachers	Enrollment	Teachers
1	1,100	44	4,200	134	11,000	490
2	430	19	3,900	139	6,092	259
3	750	28	4,100	152	13,400	560
4	1,000	25	3,200	120	5,600	220
5	1,350	55	3,600	140	4,900	200
6	1,350	53	3,650	129	18,351	705
7	800	28	2,640	102	9,000	368
8	1,500	62	2,710	112	6,800	245
9	1,375	50	3,850	145	15,120	728
10	1,400	57	4,937	172	5,450	250
11	2,600	93	5,253	184	12,660	586
12	1,300	48	3,100	115	28,900	1,331
13	320	15	3,030	115	6,000	274
14	440	17	3,900	116	7,300	315
15	1,016	35	4,900	154	4,788	211
16	230	8	3,396	126	5,550	217
17	1,110	38	5,029	186	10,830	452
18	390	17	3,490	124	5,452	200
19	1,100	42	3,315	114	9,400	381
20	215	10	2,600	96	7,100	320
Total	19,776	744	74,800	2,675	184,593	8,312
Average	988	37	3,740	133	9,229	415
Pupil-Teacher Ratio	1/26		1/28		1/22	

## APPENDIX D

## A Summary of Recent Changes in the Teacher Tenure Act of 1937.

(Act No. 4 of the Public Acts of the Extra Session of 1937)

1. Probationary teachers are now excluded from the protection of Articles 4, 5 and 6 which apply to tenure teachers. Formerly a probationary teacher could appeal to the Tenure Commission. (Article II, Section 3884, 1963 amendment)
2. The reduction in salary that might accompany removal from an administrative position to a teaching position was changed from "highest salary paid to any active classroom teacher" to "salary in the position to which such teacher . . . as if he had been continuously employed in such newly assigned position." (Article 3, Section 38.91, 1963 amendment)
3. This same section just mentioned adds another brief but significant sentence at the very end of the section--"Continuing tenure shall not apply to an annual assignment of extra duty for extra pay."
4. Article VI, Section 38.121, Right to Appeal has a very significant change. The original wording states that a teacher shall have the right of appeal. In 1963 the right of appeal was changed to "a teacher who has achieved tenure." Probationary teachers are presently excluded from the right to appeal to the Tenure Commission.

5. Another 1963 amendment changed the Tenure Commission (Article VII) from three members (representing the public, school boards and classroom teachers, respectively) to five members (two classroom teachers, a school board member, a superintendent and a public member).
6. Article VII was further changed in 1963 by adding another sentence "All records shall be kept in the office of the superintendent of public instruction."
7. Article VIII was changed from a local option law to apply to all school districts of the state (1964 amendment).
8. Then in 1965 an amendment was given immediate effect which raised the per diem allowance for tenure commission members (Article VII, Section 8) from five dollars per diem to twenty-five dollars per diem.

#### Legislative Proposals in 1965

1. Senate Bill No. 446 proposed to reinstate the right of appeal by probationary teachers.
2. House Bill No. 2469 would allow boards of education to continue to employ a person beyond retirement age on a year-to-year basis for the benefit of the school system.

APPENDIX E

Letter from the Tenure Commission Regarding the Cases from

September, 1964, to September, 1965

STATE OF MICHIGAN

STATE TENURE COMMISSION  
Harry A. Lockwood, Chairman  
Capitol Building, Lansing, Michigan

September 14, 1965

Mr. Jack E. Meeder, Supt.  
Montague Public Schools  
4900 Stanton Blvd.  
Montague, Michigan

Dear Mr. Meeder:

The Tenure Commission has received only two appeals during the period of time which you mentioned, September 1, 1964, to July 1, 1965. I am enclosing a copy of the decision in each of these cases. The Commission heard the Anne Lash case on November 16, 1964, and the Bobby Jack Young case on May 26, 1965.

However, the Commission has received three appeals since July 1, 1965, which actually cover the 1964-65 school year also. Two of these appeals have been heard by the Commission, Hosain Mosavat vs. Garden City Board of Education on August 4, 1965, and Delilah Matthews vs. the School District of the City of Pontiac on September 2, 1965. They expect to reach a decision of these cases at their next meeting of September 23. The third appeal is for Velma Rogers vs. the Taylor Township School District and the hearing is set for September 23, 1965.

I am sorry to be so late in getting this information to you and hope it will be of some value. If we may be of any other assistance, please feel free to call on us.

Sincerely,

(Mrs.) Donna Baker  
Secretary

Enclosure

APPENDIX E

Decision and Order of the State Tenure Commission--

STATE OF MICHIGAN

STATE TENURE COMMISSION

ANNE LASH,

Appellant

- v -

Docket No. 65-1

BOARD OF EDUCATION, SCHOOL DISTRICT

OF THE CITY OF DEARBORN

Appellee

---

DECISION AND ORDER

The case involves the status of Mrs. Anne Lash as a teacher, some twenty-five exhibits, the testimony of several witnesses and the briefs of the respective attorneys which were most helpful to the Tenure Commission. The actual hearing under the skill of the attorneys was exhaustive of the facts and raised the issues clearly. Because of this, some effort is made to limit the length of the opinion by referring to the Exhibits by number or letter so that they need not be set out in this opinion.

The facts as determined from the hearing are as follows:

1. Anne Lash became a tenure teacher in the Dearborn system in 1946. She took a maternity leave of absence from February, 1949 to January, 1950, resumed teaching and then took successive

maternity leaves of absence for the school years 1955-1956, 1956-1957, and 1957-1958. She resigned her position by letter dated May 15, 1958 (Exhibit A) and her resignation was accepted by letter dated June 6, 1958 (Exhibit B).

2. Arising from her failure to actively teach for a period of five years, Mrs. Lash's permanent certification lapsed under the regulations of the State Board of Education and was reinstated in July, 1963 after she had undertaken and completed additional courses of study as required by state authorities.

3. She taught for the Dearborn system during the school year 1962-1963 as a substitute on a day-to-day basis.

4. Commencing in September, 1963 to January, 1964 and from January, 1964 to June, 1964 Mrs. Lash was hired as a "term" teacher under two distinct contracts. (Exhibits 1, 2 & 3). Exhibit 2 was a revision of Exhibit 1 and improved her salary position retroactively to September. Mrs. Lash took over the teaching assignment of Miss Joan Mishica who received a leave of absence for school year 1963-1964 to teach in a foreign country. Mrs. Lash understood that she was replacing a teacher on leave.

5. The contracts above referred to in paragraph 4 each contained the following language stating that her appointment would end upon:

- A. The return of the absent teacher, or
- B. The appointment of a full time teacher, or
- C. At the end of the semester, or
- D. Whichever of the above events occurs first.

The second semester contract carried an ending semester date of June 12, 1964 and included the following language: "Your contract will terminate on June 12, 1964 and is not a probationary or continuing contract under tenure."

6. The so-called "term contract" has been used by appellee for some time and is designed to take care of vacancies caused by regular teachers leaving the system to teach in a foreign country, serve as a member of the Peace Corps, undertake special study and other unusual reasons for leaving the system on a temporary basis. The number of such contracts has steadily declined.

7. On May 11, 1964, the appellee wrote Mrs. Lash advising her in substance that her services would end at the close of the semester on June 12, 1964. There was no complaint of her teaching ability and she was thanked for her satisfactory services. (Exhibit 4). Mrs. Lash sought and received an interview with the Personnel Director, Mr. Johnston, and at this meeting in the first week of June he informed her again that her services would end and in addition informed her that her services had not been satisfactory. Mrs. Lash then had an interview with her principal, Mr. Tomola, and was given a copy of her performance rating. (Exhibit 5). This evaluation dated April 1, 1964, indicated some areas of dissatisfaction with Mrs. Lash's work. The evaluation report although not extensive or of much detail may be construed as charges against the appellant.



8. Immediately thereafter Mrs. Lash asked the Dearborn Federation of Teachers through its President, Mr. Dennis O'Leary, to represent her and file a grievance on her behalf. It is clear that she designated Mr. O'Leary as her agent in all matters and he accepted the relationship. A written grievance was filed on June 11, 1964 (Exhibit 7) and was filed under the then effective grievance procedure (Exhibit 8). On July 13, 1964 the Board of Education in executive session first adopted a new grievance procedure and then considered the grievance as processed by her agent, Mr. O'Leary. There is no evidence to assume that the change in grievance procedure is found as Exhibit 9. No minutes of the Board reflect the action taken in disposing of the grievance or that any form of hearing was undertaken. (Exhibits 11 through 17).

9. The Board refused to change the termination and this was communicated orally to Mr. O'Leary on July 15, 1964, and at his request the refusal was reaffirmed in writing to him on August 11, 1964 (Exhibit 10). On August 28, 1964 counsel for Mrs. Lash wrote the Board and requested a hearing, (Exhibit 20) and on September 4, 1964 the Superintendent wrote counsel and stated that the request had been referred to their counsel for consideration (Exhibit 22) and on September 18, 1964 counsel for the Board advised Mrs. Lash's counsel that the additional hearing was denied (Exhibit 21). Thereafter according to the records of the State Tenure Commission, an appeal was filed on September 26, 1964 on behalf of Mrs. Lash.

The above facts are not all relevant to the issues of the case but serve to set forth the history of the case and hopefully aid the reader of this opinion in grasping the background of the controversy in a short period of time. The legal issues are as follows: (followed in each case by our determination of each)

A DOES THE TENURE ACT ALLOW THE USE OF THE "TERM CONTRACT", AND IF NOT IS THE CONTRACT IN THIS CASE A PROBATIONARY CONTRACT OR A TERM CONTRACT?

The commission finds no evidence in the act, either by precise wording or reasonable inference from the wording that a teacher who resigns and loses her previously acquired permanent certificate also loses her tenure status. Although the "term contract" basically states that the same is neither a probationary or tenure contract, Section 2 of Article X clearly states that "no teacher may waive any rights and privileges under this act in any contract or agreement made with a controlling board." The same section clearly invalidates any part of a contract "which may be interpreted as contrary to the reasonable and just causes for dismissals, ---and of no effect in relation to determination of continuance of employment of such teacher."

The clear prohibition contained in the Act as above stated thus makes it impossible for the teacher to contract away any of her rights, to devise a manner of termination of her services except as provided in the act (charges, hearing, leave of absence, resignation, etc.) or to allow notice of termination to be a part of the contract. For the above reasons, and not because of any lack of sympathy with a Board who must fill vacancies on short notice and often for only a semester or two, we find the wording of the contract illegal as to those portions set forth in paragraph 5 above.

To determine whether the contract stripped of the above wording is probationary or tenure, contract forces us to an issue within the principal issue. The facts indicate that Mrs. Lash upon leaving by resignation did have tenure. Section 2 of Article II of the act states: "No teacher shall be required to serve more than one probationary period in any one school district or institution."

The determination of fact that Mrs. Lash had tenure upon her resignation is controlling in determining the nature of the contract. She could not be required to serve any additional probationary period and as such the contract became a tenure contract under the two basic alternatives contemplated by the act. A case of similar construction was decided by the Tenure Commission on September 13, 1955 in Dezena Williams -v- Board of Education of Melvindale Ecorse Township School District.

B. WAS THE APPELLANT DISCHARGED AS REQUIRED BY ARTICLE IV OF THE ACT?

The determination of this issue requires an investigation into whether or not the various subsections of Article IV were followed. Assuming that the evaluation report (performance rating) might have constituted charges concerning the character of her professional services, it is clear that she had no knowledge of the same until June of 1964 and this was clearly less than "sixty days before the close of the school year" as required by Section 2 of Article IV. If they constituted charges and Mrs. Lash asked for a hearing through a grievance procedure, her request cannot be deemed an acceptance of the charges served so late. Assuming only for the purpose of argument that she waived the sixty day period, we point out that no hearing was granted as contemplated in Section 4 of Article IV. No transcript of the hearing was made, no decision in writing was made within 15 days of the hearing date, and no minutes reflect the action of the Board. For the information of interested administrators who are concerned with the legality of executive meetings and the necessity of minutes, we refer to ATTORNEY GENERAL'S OPINION #2992 under date of August 12, 1957.

In addition it may be pointed out, as a side note, that where a grievance procedure is instituted by the Board and the teachers for the purpose of resolving controversies on a local level (which should be encouraged) extreme care should be used so as to comply with the Tenure Act in dismissal cases. The Tenure Act stands by itself and

can only be modified by legislative action. In this case a genuine dispute arose primarily dealing with legal interpretations and as a result it perhaps was originally inevitable that the matter be heard by the Tenure Commission.

It is the finding and order of the Tenure Commission that the appellant, Anne Lash, be reinstated as a tenure teacher, that she be reimbursed for all salary lost and if desired by the appellee Board she be provided with a hearing in accordance with proper charges and a determination thereof by statutory method as contemplated by Article IV of the Act.

JANUARY 12, 1965

s/ Albert C. Johnson  
Albert C. Johnson, Secretary

s/ Chalmer Young  
Chalmer Young, Member

s/ Gladys Davis  
Gladys Davis, Member

s/ Carl W. Morris  
Carl W. Morris, Member

Decision Unanimous, concurring opinion by Harry A. Lockwood, Chairman.

#### CONCURRING OPINION

I concur with the findings of fact of the majority and with their Order of reinstatement as detailed in their opinion. My reason for this short concurring opinion is to pose the possible need for legislative concern in the wording of the act.

Basically the act is designed to upgrade the level of the teaching profession. Although the Act is protective to the teacher the inevit-

able result desired is to offer to our children the best teachers available in all grade levels. The placing of an unqualified teacher in a system can be of great harm to the young student who has no choice in the selection made but who receives all of the benefits or detriments flowing from the protected teacher.

In cases of this sort the Tenure Act and the rules and regulations of the State Board of Education overlook the fact that when a teacher leaves the profession for many years he or she may return to the profession totally unfit to teach arising from physical or emotional reasons. The mere reinstatement of a permanent certificate by receiving credit for ten hours of college level work is not testing the teacher on the battle line of class room service. It is the classroom where the skill of the teacher is challenged.

Under our present system a teacher could be away from teaching for twenty years, be hired by her previous school system and be given all of the protection of tenure without even the necessity of serving one year of probation.

Our children are entitled to protection under the Act. Professional incompetence need not be tolerated. Is there any reason of sound public policy why such a teacher should not be obliged to at least serve one year of additional probation? Section 2 of Article III recognizes this principle as it applies to a different system. The distinction is artificial and will lead to inferior education.

January 12, 1965

s/ Harry A. Lockwood, Chairman  
Harry A. Lockwood, Chairman

APPENDIX E

Decision and Order of the State Tenure Commission--

STATE OF MICHIGAN

STATE TENURE COMMISSION

BOBBY JACK YOUNG,

Appellant

-v-

Docket No. 65-2

SCHOOL DISTRICT OF THE

CITY OF HAZEL PARK,

Appellee

---

DECISION AND ORDER

The facts of the case, from the extensive stipulation agreed upon by the parties, are as follows:

1. The appellant Bobby Jack Young commenced teaching as a probationary teacher in the School District of the City of Hazel Park in September, 1962, and was under contract as a probationary teacher for the school years 1962-1963, 1963-1964 and 1964-1965.

2. The school district is a Third Class School District and its Board of Education consists of seven (7) members.

3. On April 1, 1965, the Board held a special meeting at which five (5) members were present and two members were absent. An extensive motion as to the tenure status and probationary status of various teachers was presented which included the following:

"That Bobby Jack Young not be retained."

An amendment to the motion was made to delete Bobby Jack Young from the list temporarily. A roll call on the amendment showed a vote against the same by three to two. The amendment was declared defeated by the Board President.

4. At this time one of the Board members left the meeting. Only four (4) members remained in session.

5. Subsequently the original motion was amended without reference to Bobby Jack Young in any way. The vote in favor of the amendment was four to zero. The Board then voted on the motion as amended and the amended motion received three (3) yeas and one (1) nay. Board member Bowers stated "Since Bobby Jack Young is included in this motion I had to vote no. I feel this item should have been voted on separately."

6. No further action was taken relative to the teaching status of Bobby Jack Young.

7. On or about April 12, 1965, Bobby Jack Young received a letter from the Superintendent of Schools stating that his services would be terminated at the close of the school year.

8. On or about April 26, 1965, Bobby Jack Young wrote to the Board of Education demanding a contract for the school year 1965-1966 stating that he had attained tenure status and further stating that the contract should be issued on or before April 29, 1965, and indicating that upon failure to receive such contract he would appeal

to the Tenure Commission. On April 28, 1965, the Superintendent of Schools replied by letter stating that the appellant had been informed of his termination by the letter of April 12th wherein reference was made to his unsatisfactory performance of duty.

9. Thereafter the appellant filed his appeal.

The facts as above determined and adopted by this Commission leave no basic area of factual dispute. The issues for decision are legal and will be considered from this point on. The attorneys and the Commission have resolved the areas of conflict to the following:

- A. Does C. L. '48, Sec. 340.561 as amended, M. S. A. 15.3561 as amended, require board action by four affirmative votes or by three affirmative votes of a seven man board?

The statutory enactment governing the actions of a board provides as follows:

"All business which the board of any district is authorized to perform shall be done at a public meeting of the board and no act shall be valid unless voted at a meeting of the board by a majority vote of the members elect of the board and a proper record made of the vote."

To the best of our knowledge we are not aware of any case law in Michigan which answers the question. Read in conjunction with Section 3 of Article II of the Teacher Tenure Act we find that the board must act affirmatively in determining that a probationary teacher is not to be retained. The controlling words are "majority vote of the members elect of the board."



This wording appears as new phraseology in the amended act and as such we determine that the intent of the Legislature was to create a change in the previously existing statute. Such a change in the clear language used means in our opinion that the law requires the affirmative vote of four members of a school board consisting of seven members elect and that appellee's contention that the affirmative vote of a majority of a quorum is legal, is erroneous. The test of legislative intent is in this case reasonably ascertainable. People v. Gould, 237 Mich. 156, (1926) and Lawrence Bakery Company v. Unemployment Compensation Commission, 308 Mich. 198, (1944). Simply construed we find that a majority vote of a seven man board requires four votes on the motion presented. The facts as stated in paragraph five (5) above fail to meet this clear and unequivocal test.

B. When does the probationary period of a teacher end within a specific school district where his previous contracts have been probationary?

In this case the appellant was under probationary contract for the third year and obviously the last year that could be required under Section 2 of Article II of the Teacher Tenure Act. Arising from our determination that the action of the Controlling Board was a nullity, as above stated, we find that the appellant as a probationary teacher did not receive the required sixty day notice specified in Section 3 of Article II. Section 3 in part states:

"Provided, That failure to submit a written statement (by the controlling board) shall be considered as conclusive evidence that the teacher's work is satisfactory, and; Provided further, That any probationary teacher or teacher not on continuing contract shall be employed for the ensuing year unless notified at least sixty days before the close of the school year that his services will be discontinued."

Appellee argues that the written contract of employment being probationary in form means that the teacher remains a probationary teacher to the end of the school year. As such, appellee contends that Section 4 or Article II affirmatively denies the right of appeal to this Commission and his remedy is vested in Circuit Court. The wording of Section 4 is:

"Article 4, 5, and 6 shall not apply to any teacher deemed to be in a period of probation."

We believe and find that the problem has been basically covered by the case of Wilson v. Flint Board of Education, 361 Mich. 691, (1960). The court therein stated "the result of the above is that the teacher having satisfactorily completed the probationary period, is entitled to the status of tenure, and may not be dismissed save for reasonable and just cause, and then only in compliance with the provisions of the act."

Our construction of the legislative intent is consistent with the Wilson case. We find that upon the failure of the appellee to act affirmatively, the appellant although serving under a probationary contract, became entitled to the right of appeal when the board failed to act at least sixty days before the end of the school year. His

rights to tenure status became fully vested as of that time and this right clearly grants to him the right of appeal. He was no longer deemed to be in a period of probation for the purpose of his appeal. Thus Section 4 of Article II does not apply to this appellant.

We further believe that this determination is consistent with the general purpose of the Tenure Act, which is to resolve conflicts between the teacher and the board without the necessity of court action, so long as it is consistent with the general principle that the Tenure Commission is not assuming powers reserved to the courts under the wording of the act or its reasonable interpretation.

It is the finding and order of the Tenure Commission that the appellant, Bobby Jack Young, has attained the status of a tenure teacher in the appellee district and that the appellee shall forthwith offer to the appellant a tenure contract for the school year 1965-1966.

June 23, 1965

s/ Harry A. Lockwood, Chairman  
Harry A. Lockwood, Chairman

s/ Albert C. Johnson, Sec.  
Albert C. Johnson, Sec.

s/ Gladys Davis  
Gladys Davis, Member

s/ Marian Gibson  
Marian Gibson, Member

s/ Chalmer Young  
Chalmer Young, Member

APPENDIX F

The Michigan Teacher Tenure Act

State of Michigan

Act No. 4 of the Public Acts of the Extra Session of 1937, as amended, through the Regular Session of 1964.

Michigan Teachers Tenure Act

An Act relative to continuing tenure of office of certificated teachers in public educational institutions; to provide for probationary periods; to regulate discharges or demotions; to provide for resignations and leaves of absence; to create a state tenure commission and to prescribe the powers and duties thereof; and to prescribe penalties for violation of the provisions of this act.

The People of the State of Michigan enact:

ARTICLE I.

DEFINITIONS

38.71 Definitions; teacher.

Section 1. The term "teacher" as used in this act shall include all certificated persons employed by any board of education or controlling board of any public educational institution.

38.72 Same; certificated.

Section 2. The term "certificated" shall be as defined by the state board of education.

38.73 Same; controlling board.

Section 3. The term "controlling board" shall include all boards having the care, management, or control over public school districts and public educational institutions.

38.74 Same; demote.

Section 4. The word "demote" shall mean to reduce compensation or to transfer to a position carrying a lower salary.

38.75 Same; school year.

Section 5. The "school year" shall be defined as the legal school year at the time and place where service was rendered.

## ARTICLE II.

## PROBATIONARY PERIOD

38.81 Probationary Period; teachers that have served one system the required period on effective date of act; authority of controlling board.

Section 1. All teachers during the first two school years of employment shall be deemed to be in a period of probation: Provided, That any teacher under contract at the time this act becomes effective who has previously rendered two or more years of service in the same school district shall be granted continuing tenure immediately upon reappointment by the controlling board: Any such controlling board by unanimous vote of its members, however, may refuse to appoint a teacher who has rendered two or more years service in the school district under its control. In the event the vote of against reappointment of such teacher is not unanimous, the tenure with full right to hearing and appeal as provided in article four and article six of this act: Provided further, That the controlling board, after this act becomes effective, may place on continuing tenure any teacher who has previously rendered two or more years of service.

38.82 Same; number of years a teacher may be required to serve; extension of period.

Section 2. No teacher shall be required to serve more than one probationary period in any one school district or institution: Provided, That a third year of probation may be granted by the controlling board upon notice to the tenure commission.

38.83 Same; notice to teacher, written statement.

Section 3. At least sixty days before the close of each school year the controlling board shall provide the probationary teacher with a definite written statement as to whether or not his work has been satisfactory: Provided, That failure to submit a written statement shall be considered as conclusive evidence that the teacher's work is satisfactory, and: Provided further, That any probationary teacher or teacher not on continuing contract shall be employed for the ensuing year unless notified at least sixty days before the close of the school year that his services will be discontinued.

38.84 Same; application of Articles 4, 5 and 6.

Section 4. Articles 4, 5 and 6 shall not apply to any teacher deemed to be in a period of probation.

## ARTICLE III.

## CONTINUING TENURE.

38.91 Continuing tenure; administrative capacity, provision in contract to govern.

Section 1. After the satisfactory completion of the probationary period, a teacher shall be employed continuously by the controlling board under which the probationary period has been completed, and shall not be dismissed or demoted except as specified in this act. If the controlling board shall provide in a contract of employment of any teacher employed other than as a classroom teacher, including but not limited to a superintendent, assistant superintendent, principal, department head or director of curriculum, made with such teacher after the completion of the probationary period, that such teacher shall not be deemed to be granted continuing tenure in such capacity by virtue of such contract of employment, then such teacher shall not be granted tenure in such capacity, but shall be deemed to have been granted continuing tenure as an active classroom teacher. Failure of any controlling board to re-employ any such teacher in any such capacity upon the termination of any such contract of employment shall not be deemed to be a demotion within the provisions of this act. The salary in the position to which such teacher is assigned shall be the same as if he had been continuously employed in the newly assigned position. Failure of any such controlling board to so provide in any such contract of employment of any teacher in a capacity other than a classroom teacher shall be deemed to constitute the employment of such teacher on continuing contract in such capacity and subject to the provisions of this act. Continuing tenure shall not apply to an annual assignment of extra duty for extra pay.

38.92 Same; employment by another controlling board maximum length of probationary period, option of board.

Section 2. In the event that a teacher on continuing tenure is employed by another controlling board, he shall not be subject to another probationary period of more than one year, and may at the option of the controlling board be placed immediately on continuing tenure.

## ARTICLE IV.

## DISCHARGE, DEMOTION OR RETIREMENT

38.101 Discharge, demotion or retirement of teacher.

Section 1. Discharge or demotion of a teacher on continuing tenure may be made only for reasonable and just cause, and only after such charges, notice, hearing, and determination thereof, as are hereinafter provided: Provided, however, That nothing in this act shall be construed as preventing any controlling board from establishing a reasonable policy for retirement to apply to all teachers who are eligible for retirement under Act No. 184 of the Public Acts of 1937.

38.102 Same; written charges, signatures; professional services.

Section 2. All charges against a teacher shall be made in writing, signed by the person making the same, and filed with the secretary, clerk or other designated officer of the controlling board: Provided, That charges concerning the character of professional services shall be filed at least sixty days before the close of the school year. The controlling board, if it decides to proceed upon such charges, shall furnish the teacher with a written statement of the charges, and shall, at the option of the teacher provide for a hearing to take place not less than thirty nor more than forty-five days after the filing of such charges.

38.103 Same; suspension, compensation.

Section 3. On the filing of charges in accordance with this section, the controlling board may suspend the accused teacher from active performance of duty until a decision is rendered by the controlling board, but the teacher's salary shall continue during such suspension: Provided, That if the decision of the controlling board is appealed and the tenure commission reverses the decision of the controlling board the teacher shall be entitled to all salary lost as a result of such suspension.

38.104 Same; hearing.

Section 4. The hearing shall be conducted in accordance with the following provisions:

- a. The hearing shall be public or private at the option of the teacher affected.
- b. No action shall be taken resulting in the demotion or dismissal of a teacher except by a majority vote of the members of the controlling board.
- c. Both the teacher and the person filing charges may be represented by counsel.
- d. Testimony at hearings shall be on oath or affirmation.
- e. The controlling board shall employ a stenographer who shall make a full record of the proceedings of such hearing and who shall, within ten days after the conclusion thereof, furnish the controlling

board and the teacher affected thereby with a copy of the transcript of such record, which shall be certified to be complete and correct.

f. Any hearing held for the dismissal or demotion of a teacher, as provided in this act, must be concluded by a decision in writing, within fifteen days after the termination of the hearing. A copy of such decision shall be furnished the teacher affected within five days after the decision is rendered.

g. The controlling board shall have the power to subpoena witnesses and documentary evidence, and shall do so on its own motion or at the request of the teacher against whom charges have been made. If any person shall refuse to appear and testify in answer to any subpoena issued by the controlling board, such controlling board may petition the circuit court of the county setting forth the facts which court shall there upon issue its subpoenas commanding such person to appear before the controlling board there to testify as to the matters being inquired into. Any failure to obey such order of the court may be punished by such court as contempt thereof.

38.105 Necessary reduction in personnel, first vacancy.

Section 5. Any teacher on permanent tenure whose services are terminated because of a necessary reduction in personnel shall be appointed to the first vacancy in the school district for which he is certified and qualified.

## ARTICLE V.

### RESIGNATION AND LEAVE OF ABSENCE.

38.111 Resignation and leave of absence; teacher's duties, notice.

Section 1. No teacher on continuing tenure shall discontinue his services with any controlling board except by mutual consent, without giving a written notice to said controlling board at least sixty days before September first of the ensuing school year. Any teacher discontinuing his services in any other manner than as provided in this section shall forfeit his rights to continuing tenure previously acquired under this act.

38.112 Same; leave of absence; physical or mental disability.

Section 2. Any controlling board upon written request of a teacher may grant leave of absence for a period not to exceed one year, subject to renewal at the will of the board: Provided, That without request, leave of absence because of physical or mental disability may be granted by any controlling board for a period not to exceed one year; Provided further, That any teacher so placed on leave of absence shall have the right to a hearing on such unrequested leave of absence in accordance with the provisions for a hearing in article four, section four of this act: Provided, That no leave of absence shall serve to terminate continuing tenure previously acquired under this act.



## ARTICLE VI. .

## RIGHT TO APPEAL

38.121 Appeal; hearing notice.

Section 1. A teacher who has achieved tenure status may appeal any decision of a controlling board under this act within 30 days from the date of such decision, to a state tenure commission. The state tenure commission shall provide for a hearing to be held within 60 days from the date of appeal. Notice and conduct of such hearing shall be the same as provided in article 4, section 4 of this act, and in such other rules and regulations as the tenure commission may adopt.

## ARTICLE VII.

## STATE TENURE COMMISSION

38.131 State tenure commission; creation, members, ex-officio secretary; legal advisor.

Section 1. There is hereby created a state tenure commission of 5 members: 2 of whom shall be classroom instructors, 1 a member of a board of education of a graded or city school district, 1 a person not a member of a board of education or a teacher, and 1 a superintendent of schools. The superintendent of public instruction shall be ex-officio secretary of the commission, and the attorney general shall assign to the commission an assistant who shall be legal advisor to the commission.

38.132 Same; terms, vacancy.

Section 2. Within thirty days after the effective date of this act, the governor shall appoint the members of the tenure commission for the following terms: One for a term of three years, one for a term of two years and one for a term of one year. Each term shall begin on the first day of September. Immediately preceding the expiration of their respective terms the governor shall appoint succeeding members of the tenure commission for terms of five years. In the event of a vacancy on the tenure commission the governor shall immediately appoint a successor to complete the unexpired term.

38.133 Same; geographical qualifications of members.

Section 3. Not more than one member of the tenure commission shall be appointed from any one school district.

38.134 Same; qualification of teacher member.

Section 4. Any teacher appointed to the tenure commission after September one, nineteen hundred thirty-eight, must be on continuing tenure.

38.135 Same; teacher member's status with controlling board.

Section 5. Membership on the state tenure commission shall not adversely affect the status of the teacher's tenure with a controlling board.

38.136 Same; meetings.

Section 6. The tenure commission shall meet twice a year at stated times in the city of Lansing, and at such other times and in such other places as shall be determined by the commission.

38.137 Same; power to enforce act.

Section 7. The tenure commission is hereby vested with such powers as are necessary to carry out and enforce the provisions of this act.

38.138 Same; compensation and expenses.

Section 8. The members of the state tenure commission shall receive five dollars per day while hearing cases and shall be reimbursed for necessary traveling and other expenses incurred in the performance of the duties of the commission. The expenses of the state tenure commission shall be paid by the state treasurer out of the general funds in the manner already provided by law for the payment of the accounts of boards and commissions.

38.139 Same; duty to act as board of review.

Section 9. The tenure commission shall act as a board of review for all cases appealed from the decision of a controlling board. All records shall be kept in the office of the superintendent of public instruction.

38.140 Same; first meeting, election of chairman and secretary, rules and regulations.

Section 10. Within thirty days after the effective date of this act, the tenure commission shall hold a meeting in the city of Lansing for the purpose of organization and the election of a chairman and secretary, both of whom shall be members of the commission. The tenure commission shall draw up rules and regulations and shall have the power to amend same and to provide for the conduct of its affairs in such manner as shall be consistent with the provisions of this act.

38.141 Appropriation.

Section 11. The sum of four thousand five hundred dollars is hereby appropriated for each of the fiscal years ending June thirty, nineteen hundred thirty-eight and June thirty, nineteen hundred thirty-nine to defray the expenses of the state tenure commission.

## ARTICLE VIII.

## DISTRICTS

38.151 Application.

Section 1. This act shall apply to all school districts of the state.

## ARTICLE IX.

## PENALTY

38.161 Penalty.

Section 1. Failure of any member of a controlling board to comply with any provisions of this act shall be deemed a violation of the law and shall subject said member to the same penalty as prescribed for a violation of the general school law.

## ARTICLE X.

## INCONSISTENT ACTS.

Section 1 repealed 1947, Act 129.

38.172 Waiver of rights by teachers.

Section 2. No teacher may waive any rights and privileges under this act in any contract or agreement made with a controlling board. In the event that any section or sections of a contract or agreement entered into between a teacher and controlling board make continuance of employment of such teacher contingent upon certain conditions which may be interpreted as contrary to the reasonable and just causes for dismissals, provided by this act, such section or sections of a contract or agreement shall be invalid and of no effect in relation to determination of continuance of employment of such teacher.

Article repealed 1945, Act 267.

## ARTICLE XII.

38.191 Effective date.

Section 1. This act shall take effect and be in force from and after September first, nineteen hundred thirty-seven.

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