Teachers—Retirement—Teachers' Retirement Fund Act.

A teacher who was eligible to retirement at the time of the enactment of chapter 150, laws 1927, has a binding contract with the fund which cannot be impaired by additional requirements.

Teachers' Retirement Fund Board,   May 11, 1927.
    State Capitol Building,
        Helena, Montana.

Gentlemen:

The letter from Retta Collicott, a teacher of Sanders county, who claims that she has completed twenty-five years of teaching service prior to the amendment which was made to the teachers' retirement fund act by the twentieth legislative assembly, was received and the question is presented as to whether the legislature could change the act by substituting thirty years of service and other provisions as to teachers who were eligible to retire at the time the act took effect.

The act provides that any teacher now receiving the benefits provided by this act or who has been placed on the eligible list and is entitled to the benefits provided by this act shall be entitled to all of the benefits of this act, as amended, without any further action or qualification on his or her part, provided that no pensioner shall receive beneficiary funds from this account who is receiving from other sources as much as $2,000.00 per annum. It will be observed that the act, as amended, seems to exclude those who had not retired prior to its taking effect.

It is my opinion, however, that the teacher who was eligible to retire before the change was made has earned a right to participate in the retirement fund on the same basis as those who had actually completed their retirement by making proof of service. A teacher who had taught twenty-five years before the amendment would have a binding obligation as to the retirement fund which, in my opinion, could not be impaired by changing the conditions so as to exclude her from participa-

tion without further service having been performed. See State vs. Police
Pension Fund, 128 Wis. 44; 98 N. W. 954.

Very truly yours,

L. A. FOOT,
Attorney General.