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As you point out in your letter, the Acts of 1953, Ch. 130 amended the Acts of 1951, Ch. 253. It is well settled that when a section in an existing law is amended it ceases to exist and the section as amended supersedes such original section, and the section as amended becomes incorporated in and constitutes a part of the original act; and the original section is as effectually repealed and obliterated from the statute as if it had been repealed by express words. *Blakemore v. Dolan et al.* (1875), 50 Ind. 195, 204.

Consequently, after July 1, 1953, the effective date of the Acts of 1953, Ch. 130, the Mental Institutions Personal Service Funds ceased to exist, the monies therein having previously been ordered paid into the General Fund of the State by Acts of 1953, Ch. 152, p. 512.

I am therefore of the opinion that the portion of the Acts of 1951, Ch. 253, set forth in your letter to me, which established the Mental Institutions Personal Service Funds, is repealed and obliterated. Therefore, monies presently being collected either for the period prior to the effective date of the 1953 Act or for the present period should be placed in the Mental Institutions Building Fund.

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### OFFICIAL OPINION NO. 55

November 9, 1954

Mr. Harold F. Brigham, Director  
Indiana State Library  
140 N. Senate Avenue  
Indianapolis, Indiana

Dear Mr. Brigham:

This is in reply to your letter requesting an Official Opinion which is in part as follows:

“Where, in an incorporated town, there exists a Class II library, which has accepted the provisions of the Library Law of 1947, as amended, and is authorized by its charter to serve the entire township in which it is situated, and where neither said incorporated town nor the said township is otherwise served by a library, and

where a tax has been levied in the incorporated town for the support of such library for the year 1954:

“1. If the library contracts with the township trustee on consent of the Township Advisory Board for library services for the year 1955 for that part of the township outside of such incorporated town, which part of such township is not otherwise taxed for library purposes, shall the Township Advisory Board of such township levy a tax on all taxable property in the area of such township outside the said incorporated town sufficient to pay the amount agreed to be paid for such library service contracted for, under and pursuant to Acts of 1947, Ch. 321, Sec. 14 as amended by Acts of 1953, Ch. 13, Sec. 4 (First Paragraph) ?

“2. May the said library contract with the Township Trustee on consent of the Township Advisory Board for library service to the entire township for the year 1955, if said library fails to continue to levy a tax for such library in such incorporated town?

“3. If the answer to question 2 is ‘yes’—then, if the said library contracts with the township trustee on consent of the Township Advisory Board for library service to the entire township, including the said incorporated town for the year 1955, shall the Township Advisory Board of such township levy a tax on all taxable property within the limits of such township (including the taxable property in the said incorporated town) under and pursuant to Acts 1947, ch. 321, sec. 14, as amended by Acts 1953, ch. 13, sec. 4 (First Paragraph) ?

“4. Under questions 1 and 3 above, would the said township become a part of the County Library system and a tax levied for county library purposes under Acts 1947, ch. 321, sec. 12 as amended by Acts 1953, ch. 13, sec. 3 as indicated in Official Opinion No. 42 of the Attorney General of Indiana, dated June 8, 1953?

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“5. To introduce the question we note that a Class II library, as defined in the Acts of 1947, ch. 321, sec. 4, may have one of two legal identities:

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“(1) It may remain as a Class II library operating solely under the original law(s) under which it was established; or,

“(2) It may become a Class II library operating under a combination of the original law(s) *and* the 1947 act by reason of having elected provisions of the 1947 act with respect to the management, control, financing, issuance of bonds and levy of taxes.

“Specifically, may a Class II library of the type described in (1) above extend service to the county under Section 10 of the Acts of 1947, Chapter 321? May a Class II library electing the 1947 provisions as mentioned in (2) above extend service under the same section of the Acts of 1947? (Your attention is directed to an earlier law authorizing the establishment of similar county library units, namely the Acts of 1917, Chapter 45, Sec. 4 as amended in 1921 and 1939 and brought together in Burns 14-513.)”

I assume, for the purpose of answering the above questions, that the Working Men's Institute of New Harmony is a Class II library which has not converted to a Class I library but has chosen to elect to have the powers and rights enumerated in the Acts of 1947, Ch. 321, Sec. 4.

The Acts of 1947, Ch. 321, Sec. 14a, as amended, as found in Burns' Indiana Statutes (1952 Repl., 1953 Supp.), Section 41-914a provides in part as follows:

“The library board of any public library may furnish, or continue to furnish, service to any township, or any portion of a township not otherwise taxed for library purposes, by agreement between the library board and the township trustee, acting on the consent of the township advisory board. The township advisory board of a township receiving such service shall levy a tax upon all taxable property within the area to be served, except upon property otherwise taxed for library purposes, which tax shall be sufficient to meet the amount agreed to be paid for said service, provided however that this rate shall not be more than twenty cents [20¢] on each one hundred dollars [\$100] of taxable property.”

The township advisory board therefore, under Section 14a, *supra*, has the duty to levy a tax on all taxable property in the area of such township sufficient to pay the amount agreed to be paid for such library service. It is to be noted, however, that Section 14a contains a clause "except upon property otherwise taxed for library purposes." If said library fails to levy a tax for such library in said incorporated town, then the township trustee, in my opinion, would not have the authority to tax said property in such incorporated town. The tax levy is authorized only in "the area to be served." Note should be taken that Section 12 of the 1947 Library Act is applicable only when a library comes under the provisions of the 1947 Act; that is to say, when a Class II library converts to a Class I library; therefore, assuming that the Working Men's Institute of New Harmony has not converted in order to come under the provisions of the 1947 Act, said township would not become a part of the county library system.

Section 10 of the Library Act of 1947 provides that only a library district operating under the 1947 Act may act pursuant to Section 10. Therefore, it is my opinion that a library qualifying under type II, *supra*, would of necessity operate under the Acts of 1917, Ch. 45, Sec. 4.

In answer to your questions, it is therefore my opinion:

1. The township advisory board of a township which enters into an agreement for service with an incorporated town shall levy a tax on all taxable property in the area of said township outside the said incorporated town sufficient to pay the amount agreed to be paid for such library service, provided said levy does not exceed the statutory limitation.

2 and 3. The fact that the library fails to continue to levy a tax for such library in such incorporated town, would not, in my opinion, prevent said library from contracting with the township trustee for library services to the entire township. The township advisory board of said township has the authority to levy a tax on all taxable property within the area to be served in such township except that which is already taxed for library purposes.

4. As is set out above, said township would not become a part of a county library system under the Library Act of 1947 unless it converted to a Class I library.

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5a. A Class II library of the type described above may not extend service to the county under Section 10 of the Acts of 1947, Ch. 321.

5b. A Class II library electing to have the powers and rights enumerated in Section 4 of the Library Act of 1947 may extend county library service under the Acts of 1917, Ch. 45, Sec. 4.

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OFFICIAL OPINION NO. 56

November 24, 1954

Mr. James M. Knapp, Director  
Indiana State Personnel Bureau  
311 W. Washington Street  
Indianapolis 4, Indiana

Dear Mr. Knapp:

This is in reply to your inquiry which reads as follows:

“Preference in employment under the State Personnel Act is provided for veterans, their widows, and, in certain situations, their wives, in Section 19 of the Act. (Burns’ 60-1319.)

“Paragraphs (m) and (n) of the section referred to above, deal with the placing of names on appropriate employment lists when a preference eligible has been separated from his position. You will note that no time limitation is placed upon when the preference eligible may request that his name be placed on the employment list.

“In establishing re-employment lists, non-veterans must request that their names be placed on the list within two years after the date of their separation from the state service. (Official Rules, State Personnel Board, Rule 6, Section 6-2 (C) 2.)

“A situation has occurred in which an employee resigned in good standing as a non-veteran. Approximately 18 months after the resignation, the employee entered the military service and was honorably discharged 13 months later. This individual has estab-