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deemed to be in effect immediately and the township trustees shall proceed at once to organize as a county board of education for the administration of the schools in the county in which the referendum was taken."

Under the above provisions there are two possible dates when said consolidation could become effective: 1) If there is no protest filed against the action of the trustees the trustees shall meet two weeks following the date of the appearance of their last publication of notice of intention to consolidate and shall then declare that such incorporation is accomplished to take effect sixty (60) days following. 2) A protest may be filed either prior to said meeting of the trustees or within said sixty day period aforesaid, in which case a referendum vote shall be held at the next general or primary election upon the question, and if such vote is in the affirmative said consolidation immediately becomes effective.

The answer to the second part of your third question is contained in my answer to your question Number 2.

OFFICIAL OPINION NO. 48

June 20, 1952.

Honorable Cable G. Ball,
Joint Representative,
Tippecanoe and Warren Counties,
34 Lafayette Loan & Trust Building,
Lafayette, Indiana.

Dear Sir:

I have your request for an official opinion which reads as follows:

"May the City of Lafayette, the City of West Lafayette and the Trustees of Purdue University validly, under existing statutes, either jointly construct and use a sewage disposal plant or, if construction can be accomplished by only one or by any two of these entities, may the other or others under such circumstances by

contract lease or other method validly make use of such facilities?"

There are a number of existing statutes under which one or all of the various municipalities to which you refer may join to further the purpose which you mention. Chapter 307 of the Acts of 1913 as subsequently amended, same being Burns' 1950 Repl. Sec. 48-4101 et seq., provides:

"Whenever any area of contiguous territory within the limits of any one (1) county, shall contain two (2) or more *incorporated municipalities*, and shall be so situated that the maintenance of a common outlet for the drainage, including the sewage thereof, or a joint system for the disposal of the sewage thereof, will conduce to the preservation of the public health, the same may be incorporated as a sanitary district under this act, in the manner following, to-wit: Except as herein-after otherwise provided, any five hundred (500) freehold legal voters, residing within the limits of such proposed sanitary district may petition the board of county commissioners of the county in which they reside to cause the questions to be submitted to the legal voters of such proposed district, whether they will organize a sanitary district under this act: Provided, That not less than one hundred (100) of said petitioners shall be resident freehold legal voters in each municipality included in such proposed sanitary district. Such petition shall be addressed to the board of county commissioners of said county, and shall contain a definite description of the territory intended to be embraced in such sanitary district, and the name of such proposed sanitary district: Provided, however, That no territory shall be included within more than one (1) sanitary district under this act: Provided, That when any such proposed sanitary district is located in any county having a population of less than twenty-five thousand (25,000), according to the last preceding United States census, the petition addressed to the board of county commissioners shall be signed by not less than fifty (50) freehold voters residing within the limits of the proposed sanitary district."

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It is important to note that this section uses term "incorporated municipalities." The City of Lafayette is a second class city, the City of West Lafayette is a fourth class city and Purdue University is a body corporate of a governmental nature coming within the term "incorporated municipality" when that term is used in a general sense.

Examining this act at length, particular attention to Section 11 as last amended, same being Burns' 48-4111, it is my opinion that Purdue University comes within the scope of this act as it was intended to be limited by the legislature. If some difficulty should prevent Purdue University originally being included in a sanitary district organized under this act, it might be possible to annex it after organization of the district pursuant to the authority granted by Section 20 of Chapter 307 of the Acts of 1913, as subsequently amended, same being Burns' 48-4118.

Another possible solution is Chapter 157 of the Acts of 1917, which provides an organization by which a sanitary district may be created in cities of first class. Chapter 258 of the Acts of 1921, amended the title of the 1917 act and extended its benefits to cities of the second class. Section 5 of the 1917 Acts as last amended, same being Burns' 48-4205, provides in part concerning inclusion of territory in addition to the first or second class city as follows:

"Upon request, by a resolution *adopted by the common council of any other city* or by the board of trustees of any town, or by the application in writing of the majority of the resident freeholders in a platted subdivision, or of the owners of any unplatte lands not within the boundaries of an incorporated city or town, and which city, town, platted subdivision, or unplatte lands, is or are located within the county in which any such city is situated, said board of sanitary commissioners, by adopting a resolution therefor, may incorporate all, or any portions of, the area of such city, town, platted subdivision, or unplatte lands, into said sanitary district. Any such request or application shall be signed and certified as correct by the secretary of the common council, or board of trustees, or resident freeholders, or landowners making the same and the orig-

inal thereof shall be preserved in the records of said board of sanitary commissioners. Such resolution of said board, so incorporating any such area into the sanitary district, shall be in writing and an accurate description of the area so incorporated into the district shall be set out therein. A certified copy of such resolution, signed by the president and secretary of the board, together with a map showing the boundaries of such district and the location of such additional areas, shall be delivered to the auditor of the county within which such district is located and shall be properly indexed and kept in the permanent records of the offices of such auditor."

Thus it would appear that Lafayette could avail itself of this act and that the other areas which you mention could be included in the district established by the city of Lafayette.

Section 17 of Chapter 61 of the Acts of the Special Session of 1932 provides as follows:

"Any city or town operating sewage disposal works as defined in this act or which as herein provided has ordered the construction or acquisition of such works (in this section called the owner) is hereby authorized to contract with one (1) or more other cities, towns or political subdivisions within the state (in this section called the lessee), and such lessees are hereby authorized to enter into such contracts with such owners, for the use of such works by such lessees and their inhabitants, but only to the extent of the capacity of the works without impairing the usefulness thereof to the owners, upon such terms and conditions as may be fixed by the boards and approved by ordinances of the respective contracting parties; Provided, however, That no such contract shall be made for a period of more than fifteen (15) years or in violation of the provisions of said ordinance authorizing bonds hereunder or in violation of the provisions of said trust indenture. The lessee shall by ordinance have power to establish, change and adjust rates and charges for the service rendered therein by the works against the owners of the premises served, in the manner hereinbefore provided

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for establishing, changing and adjusting rates and charges for the service rendered in the city or town where the works are owned and operated, and such rates or charges shall be collectible and shall be a lien as herein provided for rates and charges made by the owner. The necessary intercepting sewers and appurtenant works for connecting the works of the owner with the sewerage system of the lessee shall be constructed by the owner and/or the lessee upon such terms and conditions as may be set forth in said contract, and the cost or that part of the cost thereof which is to be borne by the owner may be paid as a part of the cost of the works from the proceeds of bonds issued under this act unless otherwise provided by said ordinance or trust indenture prior to the issuance of the bonds. The income received by the owner under any such contract shall, if so provided in said ordinance or trust indenture, be deemed to be a part of the revenues of the works as in this act defined and be applied as herein provided for the application of such revenues."

Under this section either Lafayette or West Lafayette could construct a sewage disposal plant and a system of sewers and extend services by contract to the other city and to Purdue University (it is important to note that the authority contract is "with one (1) or more other cities, towns or *political sub-divisions* within the State").

I find no special specific provisions concerning this matter applying solely to Purdue University. Therefore, in answer to your question it is my opinion that the city of Lafayette, the city of West Lafayette and Purdue University may join to form a common independent sewage disposal district under the provisions of Chapter 307 of the Acts of 1913, or Lafayette may form a sewage disposal district including West Lafayette and Purdue University under the provisions of Chapter 157 of the Acts of 1917, or, either Lafayette or West Lafayette may establish a sewage disposal system and contract with the other governmental sub-divisions, under the authority of Chapter 61 of the Acts of the Special Session of 1932 (for a period not to exceed fifteen (15) years) to provide sewage disposal services.