Hon. Frank T. Millis,
Auditor of State,
State of Indiana,
State House,
Indianapolis, Indiana.

Dear Sir:

Your letter of November 19, 1951 has been received requesting an official opinion on the following questions:

"Are persons who are now serving with the Armed Forces of the United States exempt from paying Indiana Poll Tax?"

Section 1, Chapter 2, Acts 1944 (Special Session) reads as follows:

"Members of the armed forces exempt from payment of poll taxes.—All members of the active militia of the state of Indiana, by whatever name the same may be designated, for and during the time they may be members thereof, and all persons who have been, now are, or shall hereafter be, members of the armed forces of the United States of America, and receiving pay therefor from the United States Government, are hereby declared to be exempted from the payment of any and all poll taxes assessed for, and during, the time of such service after January 1, 1941, until twenty-four (24) months after the termination of the present hostilities, or until six (6) months after he shall be discharged if discharged prior thereto."

The above section of the statute was enacted during World War II as a temporary measure. It was to be in effect from "January 1, 1941, until twenty-four (24) months after the termination of the present hostilities, or until six (6) months after he shall be discharged, if discharged prior thereto." The "present hostilities" ceased December 31, 1946 by Presidential Proclamation No. 2714, 12 F. R. 1. Thus the latest date that a member of the armed forces of the United States could have taken advantage of Section 1, Chapter 2, Acts 1944 (Special Session) would have been December 31, 1948.
Section 1, Chapter 223, Acts 1951, the same being Section 59-1007a Burns' 1951 Replacement, provides "that all persons * * * who have served or are serving or who may hereafter serve as a part of the armed forces of the United States during the Korean crisis on or after June 25, 1950, and who have sustained injury or disease received in line of duty either (1) as a direct result of armed conflict, (2) while engaged in extra hazardous service including such service under conditions simulating war or (3) while the United States is engaged in war, and who shall have been discharged or released therefrom under conditions other than dishonorable, and the wives, widows and children of such persons heretofore mentioned, who are residents of the State of Indiana, shall have and are hereby given all the rights and privileges now held and enjoyed by soldiers, sailors, nurses and/or other veterans, their wives, widows, and children, of the first world war, under existing statutes or under any statute which may hereafter be enacted." Under this section of the statute, a person who had served or who may serve with the armed forces of the United States in the Korean crisis, on or after June 25, 1950 and who had received an honorable discharge, would come under the provisions of Section 1, Chapter 118, Acts 1937, same being Section 64-220 Burns' 1951 Replacement.

Section 1, Chapter 118, Acts 1937 reads as follows:

"Poll-tax—Soldiers and Sailors exempt. That every soldier and sailor who receives service connected disability compensation shall be exempted from the payment of any and all poll-tax. A certificate from the United States Veterans' Administration certifying that such soldier or sailor receives (service) connected disability compensation shall be sufficient evidence that such soldier or sailor is entitled to the exemption herein prescribed."

Chapter 59, Acts of 1919, provided for an exemption of poll tax for "every soldier and sailor in the active service of the United States Army and Navy, * * *." This was amended in 1920 (Spec. Sess.), Chapter 49; 1921 Chapter 222; 1923, Chapter 191; and repealed in 1937, Chapter 262. A subsequent amendment to Chapter 262, Acts 1937, by Chapter 33, Acts 1945 did not reinstate the exemption of poll
tax for "every soldier and sailor in the active service of
the United States Army and Navy, * * *.*"

An official opinion of the Attorney General of 1949, p. 242,
construed Section 45-1210 Burns' 1940 Replacement as ex-
empting officers and enlisted men of the Indiana National
Guard from the payment of poll tax. However, this section
of the statute makes no provision for exemption should such
officers and enlisted men of the Indiana National Guard be
inducted into Federal Service of the Armed Forces of the
United States.

It is, therefore, apparent that all persons who are residents
of Indiana and who are now serving with the armed forces
of the United States are subject to the payment of Indiana
poll-tax. Persons who have been discharged or might be
discharged, who served in the armed forces of the United
States after June 25, 1950, and who are receiving service
connected disability compensation; would be eligible for ex-
emption of poll tax.

OFFICIAL OPINION NO. 104
November 29, 1951.

Honorable Henry F. Schricker,
Governor,
State of Indiana,
State Capitol,
Indianapolis, Indiana.

Dear Governor Schricker:

We have your request for an official opinion which presents
the following question:

"Should there be a vacancy in the office of Clerk of
a Circuit Court by death, resignation or otherwise,
who has the authority to fill the vacancy thus created?"

The office of Clerk of the Circuit Court is created by Sec-
tion 2, Article 6 of the Indiana Constitution, which provides
as follows:

"There shall be elected, in each county by the vot-
ers thereof, at the time of holding general elections,