Therefore, it is my opinion that the Board of Trustees of an incorporated town has the right to adopt its budget and fix its local tax levy and rate pursuant to the provisions and limitations contained in Sec. 48-6806, supra; that the County Board of Tax Adjustment has the right and duty to examine, revise, change, reduce, and in case of emergency and subject to the approval of the State Board of Tax Commissioners, increase the tax levy and rate as provided in Sections 48-6806 and 64-311; that upon recommendation of the County Board of Tax Adjustment, or upon an appeal by any municipal taxing unit, or by ten, or more, taxpayers, the State Board of Tax Commissioners is granted the power and authority under said Sections, 48-6806, 64-311 and 64-314, to review, revise, change, reduce or increase the total aggregate tax levy and rates within said municipal tax unit from which said appeal is taken, all as provided in said sections aforesaid.

Further, it is my opinion that the jurisdiction of the State Board of Tax Commissioners is limited to that of an appellate tribunal and that it does not have, or possess, any original jurisdiction to review, revise, reduce or increase, except as expressly granted by the sections of the statute above mentioned, and the appellate jurisdiction of said board is likewise prescribed and limited by the provisions of the statute granting the right of appeal.

STATE BOARD OF ACCOUNTS: Appearance bonds, procedure for the collection of forfeited appearance bonds in the municipal criminal courts of Marion County.

August 24, 1943.

Hon. Otto K. Jensen,
State Examiner,
Department of Inspection and Supervision of Public Offices,
State House,
Indianapolis, Indiana.

Dear Mr. Jensen:

I have your letter of August 19, 1943, inquiring as to the procedure for the collection of forfeited appearance bonds in the Municipal Criminal Courts of Marion County.
The procedure for the collection of forfeited appearance bonds in all cases and in all courts is set out in Section 9-722, Burns' Indiana Statutes 1942 Replacement. The Indiana Supreme Court in Thompson v. State, 46 N. E. (2d) 600, — Ind. —, in speaking of the purpose of this section said:

"* * * It was to prescribe one form of recognizance for use 'in all cases and in all courts' (Acts 1927, p. 412) and to provide simple and adequate procedure for enforcing the obligation created by the recognizance. We think the legislative aim was accomplished. It would seem also, though we need not herein so decide, that the remedy so provided is exclusive."

In complying with Section 9-722, supra, a valid judgment can be obtained only through a strict compliance with its provisions. In Albert Starkie, Jr., and United States Fidelity and Guaranty Company, of Baltimore, Maryland v. The State of Indiana, 49 N. E. (2d) 968, — Ind. —, the Appellate Court said:

"* * * The statute is somewhat drastic in its operation and the full measure of protection afforded by it to sureties must be accorded to them before a judgment may be entered against them according to its terms. * * *"

Assuming that the recognizance bond is in proper form and that the prisoner has failed to appear, I will set out herein the proper procedure for obtaining judgment.

First. Upon the failure of the prisoner to appear the court shall declare the bond forfeited.

Secondly. The clerk shall mail notice of such forfeiture to the addresses indicated in the bonds.

Thirdly. Ten days or longer after such mailing the prosecutor should ask for judgment. A valid judgment can be granted by the court only after proper evidence is submitted showing that the conditions precedent have been satisfied. This evidence should be made a part of the record before the judgment is entered. A bare finding by the court that the requirements have been met is insufficient if there is a lack of evidence to sustain that finding. The Albert Starkie, Jr., case, supra, was decided on these facts. Under the law as
In the Starkie case, it would seem advisable for the clerk to file a written return showing notice, etc., to the surety. This return should be filed as a paper in the cause and copied into the order book.

My conclusion is, therefore, that the proper procedure for the collection of forfeited recognizance bonds is strict compliance with Section 9-722, Burns' 1942 Replacement.

INDIANA SOLDIERS' AND SAILORS' CHILDREN'S HOME:
Whether children of Seabees are entitled to admission to the Home.

August 25, 1943.

Hon. L. A. Cortner, Supt.,
Indiana Soldiers' and Sailors' Children's Home,
Knightstown, Indiana.

Dear Sir:

Your letter of August 21, 1943, received as follows:

"Following your recent opinion that children of men in the armed service of the United States in the present war are now eligible to admission to the Indiana Soldiers' and Sailors' Children's Home, another question has arisen on which we should like a further opinion. We have had an application for admission of a family where the father has enlisted in the Sea Bees, or Naval Construction Battalions.

"Does enlistment in the Naval Construction Battalion constitute service in the armed forces in the United States? May we have a reply at your convenience?"

The official opinion referred to in your letter was dated July 22, 1943. Supplementing that opinion, I wish to advise that inquiries to the Naval Department reveal that the word "Seabees" is derived from the abbreviation of the words "Construction Battalion." The Construction Battalions of the Navy were originally organized under the Department of Yards and Docks and is a branch of the Engineering Department of the Navy. Their duties are to engage in construction work and the making of any required installations or repairs as ordered by their superior officers. They are enlisted men