require felonious intent. Therefore, in answer to your specific question, I am of the opinion that a charge of "vehicle taking" must be brought in the county where the vehicle was originally taken even though as pointed out in the case of Leap v. State, supra, a prosecution for larceny for the theft of the same automobile would lie in either the county of the original commission of the act or in any county in the state into which the automobile might be taken by the perpetrator of the original offense.

INDIANA STATE LIBRARY: Organization of City and County Library Board—Whether joint board may be organized immediately upon appointment.

September 18, 1942.

Miss Hazel B. Warren,
Chief Extension Division,
Indiana State Library,
Indianapolis, Indiana.

Dear Miss Warren:

I have before me your letter of September 16, 1942, requesting an official opinion as to the status of the county members of a joint City and County Library Board, which county members are appointed pursuant to Section 41-514 of Burns' Indiana Statutes Annotated (1933), 1940 Replacement Volume.

In the case submitted the provisions of Section 41-513 of Burns' Indiana Statutes Annotated (1933), 1940 Replacement Volume have all been complied with to authorize the extension of free service to all the people of the county involved, and the Board of Commissioners have levied a tax as provided in the foregoing sections. At the present time the four county members have not been appointed and the City Library Board has been changed by the addition of several new members. The question is as to whether the City Library Board may reorganize without consideration to the appointment of the four county members, and as to when the four county members, become members of the board.
Without going into a lengthy discussion of this matter, it seems to me that the answer is rather obvious. If the four county appointed members have not been appointed as yet or qualified and the City Board has lost its organization by the death or resignation of some of its officers, the City Board would have a right to reorganize upon the simple principle that a board of this kind cannot act except through organization. However, if and when the four county members of the board are appointed and qualified they become members of the board and a reorganization of the joint board would have to be made.

As I understand it, it has been contended that the county appointed members do not become members until next July since then is when the money arising from the tax levy would actually be paid to the city. In view of the section as it is now written, however, I do not think that that contention can prevail. The statute provides that:

"If the board of county commissioners shall levy a tax for library purposes as provided in Section 4 of this act" (which is Section 41-513 supra) "then such county commissioners shall within ten (10) days appoint two persons" * * * "and the county superintendent of schools likewise shall appoint two (2) such members. * * *"

The Section further provides that:

"The members so appointed shall have the same qualifications and equal authority with other members of the public library board in the levying and expending of county taxes and in the maintaining of library service to the inhabitants of the county from which they were appointed."

There is clearly nothing in the statute which would justify the contention that board members who must be appointed within ten (10) days after the tax levy is made are to remain inactive for the period of nearly eight months after their appointment is made. When these members are appointed, in my opinion, they should qualify and when qualified the public library board should be organized with all its members having a part therein, and that would be true irrespective of whether
the City Board should deem it advisable from its standpoint, to effect a reorganization before the four county members are appointed. In other words, when the four county members are appointed and qualified they are then as much members of the board as they will ever be, and a reorganization of the board, after they become members, I think, is necessary.

INDIANA STATE POLICE: Soldiers and Sailors—Whether soldiers and sailors on leave are subject to civil law and civil arrest for felony or misdemeanor.

September 21, 1942.

Mr. Don F. Stiver,
Superintendent,
Indiana State Police,
Indianapolis, Indiana.

My dear Mr. Stiver:

I have before me your recent letter in which you ask for an opinion as to whether soldiers and sailors on leave are subject to civil law, and whether such persons are subject to civil arrest for felony or misdemeanor.

Since the formation of our nation, it has been regarded as one of the fundamental principles of our system of government that the military authority is subordinate to the civil power. For example see:


However, the powers to declare and wage war are vested specifically in the Federal Government by the Constitution. Article 1, Section 8, Constitution of the United States. It is acknowledged that during times of war, the Federal Government is the supreme authority as to all matters properly connected with the war powers. The power of a State to arrest and detain a member of the armed forces of the United States, therefore, necessarily is limited by Federal authority.