present—but a majority of all the votes "in the county." If such a requirement is made when the auditor is permitted to vote there seems to be no reason for a different rule in cases in which the several trustees are the only ones eligible to vote.

I think as the statute now stands, it was the clear intent of the Legislature to provide that before an election of a county superintendent could be effective, he must receive "a majority of all the votes in the county," meaning, of course, a majority of the trustees of the county, when the trustees alone are voting and a majority of the total number of trustees, including the auditor, when the auditor is voting. All questions are answered accordingly.

ALCOHOLIC BEVERAGE COMMISSION: Dancing permits only issuable to alcoholic beverages permittees by the Commission.

Dancing places subject to municipal ordinances insofar as not inconsistent with statute and rules and regulations of the Alcoholic Beverages Commission.

June 9, 1941.

Mr. Hugh A. Barnhart,
Excise Administrator,
State House,
Indianapolis, Indiana.

Dear Sir:

I have your inquiry as to whether municipal ordinances concerning dancing are now operative insofar as they affect premises licensed by the Alcoholic Beverages Commission, and which have procured dancing permits as in the act provided. The act referred to is Chapter 237, Acts of 1941, Section 5 of which contains the following:

"Dancing permits may be issued as herein provided. It shall be unlawful for any permittee, other than a fraternal club, to allow any dancing, or for any person to dance, in any room in which alcoholic beverages are sold by the drink, in any manner, or in any room connected with such other room by means of a door or other opening, unless such permittee shall have a
special permit authorizing such dancing. * * * The application for a dancing permit shall be submitted to and approved by a majority of the local board of the county wherein the premises are located before the Commission shall issue any such permit. A dancing permit shall expire one year from the date of its issuance unless revoked or suspended prior to said expiration date. The Commission shall have power to make rules and regulations for the conduct of dancing, and may, at any time, suspend or revoke any dancing permit if it finds that it is against the public interest to allow dancing to continue in or on the premises. No permit or license, other than that in this section provided, shall be required of any permittee for dancing.”

One question raised by your letter is whether the sentence last above-quoted from Sec. 5 of the Act, supra, has the effect of removing rooms for dancing from the licensing jurisdiction theretofore possessed by cities, if alcoholic beverages are sold by the drink in such rooms or in any room connected with such rooms by means of a door or other opening. It is made unlawful for a permittee to allow dancing, and for any person to dance in such room, unless the Commission has issued a dancing permit therefor. In such cases, possession of a license for dancing issued under a municipal ordinance similar to the one which accompanies your inquiry would furnish no defense to an alcoholic beverage permittee charged with permitting dancing in a room as described without a dancing permit issued by the Commission.

In the absence of the sentence in the act, to-wit:

“No permit or license, other than that in this section provided, shall be required of any permittee for dancing,”

the authority given the Commission to issue dancing permits to alcoholic beverages permittees would not relieve such permittees from complying with municipal ordinances for the licensing of places for dancing, provided such ordinances did not discriminate against alcoholic beverages permittees.

The regulation and licensing of places for dancing constitutes an exercise of the police power vested in the sovereignty. This power may be exercised directly by the General Assembly
through the enactment of laws applicable to matters of public health, safety or morals, or may be delegated to municipal corporations to be exercised by the adoption of ordinances applicable to such matters.

While there is no fundamental rule against requiring one licensed by the state to also procure a municipal license, the General Assembly has the authority to require only the one license, and may provide that no other license shall be required.

Medias v. City of Indianapolis (1939), 23 N. E. (2d) 590, 594.

If any effect whatever is to be given the language above quoted, it must mean that by the enactment of the dancing permit provisions of Sec. 5, supra, the General Assembly has reserved to itself the exclusive exercise of so much of its police power as includes the licensing of dancing places where alcoholic beverages are sold by the drink, and has denied municipal corporations the power to license such places. This is consistent with the language immediately preceding that quoted above giving power to the Commission to make rules and regulations for the conduct of dancing and to suspend or revoke any dancing permit if found to be in the public interest to do so.

This does not mean, however, that a municipal ordinance upon the subject of dancing is wholly inapplicable to an alcoholic beverages permittee who has obtained a dancing permit. As to such permittees the ordinance will be effective concerning matters not covered by Sec. 5, or by the rules and regulations for the conduct of dancing adopted by the Commission pursuant to its authority. For example, unless regulated by the Commission, hours of dancing will be controlled by the provisions of the ordinance. Likewise, the provision in the ordinance that a matron duly designated by the Chief of Police shall be present at such dancing place will remain applicable and in full effect until superseded by action of the Commission, and the authority and duties heretofore vested in her shall remain unchanged except by subsequent ordinances or by action of the Commission in making rules and regulations within the scope of its authority and in conflict with municipal ordinances. Where the State does not undertake to exclusively occupy the field of regulation, additional regulations imposed
by a municipality, if reasonable and within the scope of its authority, are enforceable.

Spitler v. Town of Munster (1938), 214 Ind. 75, 14 N. E. (2d) 579, 115 A. L. R. 1395.
Medias v. City of Indianapolis (1939), 23 N. E. (2d) 590, 594.

In conclusion, it is my opinion that an alcoholic beverages permittee who is entitled to receive a dancing permit from your Commission and to whom such permit has been issued, may not be required to obtain a license for dancing for the same place under a municipal ordinance but that such permittee is subject to all other provisions of such municipal ordinance not in conflict with Section 5 of Ch. 237, Acts 1941, and the rules and regulations adopted pursuant thereto by the Commission.

STATE BOARD OF TAX COMMISSIONERS: Indianapolis Coliseum Corporation, method of assessing fixtures placed in Coliseum at Fairgrounds.

June 11, 1941.

Honorable Henry S. Murray,
Chairman, State Board of Tax Commissioners,
State House,
Indianapolis, Indiana.

Dear Sir:

This will acknowledge the letter of the former Chairman of the State Tax Board asking this office for an official opinion with respect to the assessment of $75,000.00 against the Indianapolis Coliseum Corporation. I quote the letter requesting the opinion:

"The County Council of Marion County placed an assessment of $75,000.00 against the Indianapolis Coliseum Corporation for the improvement placed by said Corporation in the coliseum in the State Fair Ground. The contract entered into, as shown in the lease, provides that the corporation should pay a minimum rental of $12,000.00 per annum for ten years, and it also provides that if the lease is not renewed