the circuit court shall be allowed to appoint at least one (1) deputy for each of said courts; the county sheriff; and the county recorder. The salary of each of said deputies shall not be less than seventy-five dollars ($75.00) per month nor more than one hundred twenty-five dollars ($125.00) per month. * * *"

It is obvious from the foregoing that no absolute right to appoint a deputy resides in the county superintendent in counties where the population is less than 25,000.

As will be observed in the next literary paragraph of the above Section, where the population of the county is in excess of 25,000 the county school superintendent does have the right to appoint a deputy, without the approval of the board of county commissioners.

Your question is answered, therefore, that there is no mandatory duty upon the board of county commissioners to pay the salary of such a deputy in the case submitted, unless the number of deputies has their approval.

MOTOR VEHICLES, BUREAU OF: Registration of school buses, same to be required annually.

Schools: Requirement as to registration of school buses.

September 17, 1941.

Mr. R. Lowell McDaniel,
Bureau of Motor Vehicles,
State House,
Indianapolis, Indiana.

Dear Sir:

This is in response to your request for an opinion further interpreting the School Bus Registration Act of 1941. Your questions are as follows:

“How long will the school bus plates purchased in 1941 be valid?

“Will they expire the last day of February, 1942, as other license plates, or will they expire the last day of December, 1941?
Or, will they be valid for the duration of the operator's contract with the school authorities, or will they be valid as long as the bus for which they are issued is in service?"

In an opinion dated August 20, 1941, to you, I advised that the 1941 School Bus Registration Statute was enacted as a substitute for all former acts on the subject of school-bus registration and by its provisions repealed the old laws on that subject. In that opinion of August 20, 1941, it was pointed out that there were special reasons why busses transporting children to and from school were performing a special service and the legislature was justified in enacting a special law with respect to them different from law which applied to other motor vehicles. Section 2 of the Act provides:

"Before any school bus shall be operated or driven on any public highway of this state, the owner thereof shall file, as required by law, a verified application for the registration of such school bus in the office of the secretary of state or in any branch office established by the secretary of state. A fee of ten dollars shall be paid to the secretary of state upon the registration or reregistration of such school bus."

Section 3 of the Act provides that the owners and operators shall be exempted from the payment of any additional license fees for the operation of such school-bus.

The Act contains no emergency clause, and it went into effect with the proclamation of the Governor on July 8, 1941. There is nothing in the proceedings of the legislature in the way of debates that can be resorted to in aid of an interpretation of the Act. The law is not an amendment of any former Act. Instead, by Section 4 it repeals all laws and parts of laws in conflict with it and it purports to be somewhat complete in itself on the subject of school bus registration.

Giving consideration to the language of the statute itself, I do not believe there is any room for an interpretation that school buses are required to be registered annually or for any definite period. My reasons for this conclusion are as follows:

A cardinal rule of statutory construction is that no intent ought to be imputed to the legislature other than that which can be gathered from the law itself.

25 R. C. L., Sec. 225 on Statutes.
There is no ambiguity in the Statute under consideration that arises from its language which requires interpretation. This rule is well stated in Pere Marquette R. Co. v. Baertz, 36 Indiana Appellate 408, 414:

“In giving force to a statute, courts should look to the language used by the lawmaking power as expressive of its will; and where this language is plain and free from ambiguity, and the meaning expressed is definite, a literal interpretation of the statute should be adopted. Black, Interp. of Laws, p. 35. It is not within the province of the court to take from or to enlarge the meaning of a statute by reading into it language which will, in the opinion of the court, correct any supposed omissions or defects therein. As has well been said in the case of Davis v. Elliott (1893), 7 Ind. App. 246: ‘The rights of the parties are to be determined not by what the legislature might well have done, but by what it has actually done.’” State, ex rel. v. Aetna Life Ins. Co. (1889), 117 Ind. 251; Black, Interp. of Laws, p. 37.

It is true that where a literal interpretation of a statute would lead to an absurd consequence which the legislature could not have intended, some other construction should be sought, but it is not unreasonable or absurd for the legislature to conclude that more than one registration of a school-bus was unnecessary and that a registration fee of $10.00 was sufficient to remunerate the State so long as the bus continues to serve its purpose. The fee for School-bus registration, whether paid directly by a School Township, or by an individual operator that contracts with the school authorities, eventually comes out of the pocket of the State.

The Statute as enacted contains two changes from the original bill introduced in the legislature. The amount of the fee for registration was raised from $5.00 to $10.00 and an emergency clause in the bill for the taking effect of the law was deleted from the bill. It is reasonable to say that the legislature changed the fee from $5.00 to $10.00 because the lower figure would be insufficient even to pay the cost to the State of the expense of registration and the cost of furnishing the necessary number plates for the several years which might be necessary to indicate that the bus had been legally
registered and was therefore entitled to the use of the highways. The $10.00 fee would about meet such cost of the State.

Attention has been called to the language in the first sentence of Section 2, quoted above—that the owner of the bus shall file “as required by law” a verified application for registration. It is suggested that the words “as required by law” refers to other sections of the Motor Carrier Act and means that the registration is required to be made annually. The reference is to the application for registration and not to the duration of the registration.

The law which provides for annual registration of motor vehicles for each calendar year is found in Chapter 2 of the 1941 Acts, which, by an emergency, became effective on January 21, 1941, before the 1941 school-bus law as approved by the Governor. This Act of January 21 amended the 1935 registration law, and, as amended, the Statute contains many provisions which are plainly not applicable to school-busses. The main feature of this Act is to extend the life of a license plate to March 1st. The School-Bus Statute which became a law July 8, 1941, was clearly intended to be the last word of the legislature on that subject, and it contains no provision for an annual registration.

The final sentence in Section 2 quoted in the forepart of this opinion, provides that the ten dollar fee shall be paid “upon the registration or registration of such school-bus.” I believe that the legislature by this language, and by the word “re-registration,” simply intended to cover the case of a school-bus that had already been registered before July 8, 1941. Such a school-bus would require reregistration under the new law. Or, where a school-bus has been registered under the 1941 law and then put to some other use, and later on is installed again in service as a school-bus, such a vehicle would require reregistration and the payment of the ten dollar fee.

Certainly if the legislature had intended that the registration fee required in this act be an annual registration fee, it would have been easy for them to have so provided by adding one or two words in the act as passed, as they have done in all other motor vehicle and license registration acts where annual registration is required. In the absence of such language or other language which could reasonably be construed to require an annual registration and the payment of a fee therefor, we would not be justified in making an interpretation which would require an annual registration fee.
It is my opinion, therefore, that a school-bus as defined in the 1941 Act, must be registered and a ten dollar fee collected before such bus can be legally operated or driven on any public highway of the State of Indiana, and, that this registration fee of ten dollars is all the registration fee that is required to be paid so long as the particular bus is continued in service as a school-bus.

STATE TAX BOARD: Intangibles, whether judgment fixing the value of real estate in condemnation proceedings is a taxable intangible.

September 17, 1941.

Mr. Judson H. West,
Intangibles Tax Administrator,
Indiana Tax Board,
Indianapolis, Indiana.

Dear Mr. West:

I have before me your request that an official opinion issue in response to the following inquiry:

"The City of Boonville, Indiana, filed a condemnation proceeding against the Electric Utility property serving that city November 18, 1938, and subsequently received judgment setting up the value of said property. The property was then later acquired by the city.

Our question is, whether a judgment rendered in a condemnation proceeding comes within the Intangibles Tax Act of 1933 or is such judgment excluded therefrom for the reason that it is not really a judgment for the recovery of money, but merely one fixing and establishing, in the manner provided by law, the value of the property sought to be acquired by the city?"

A judgment rendered in a condemnation proceedings, (Burns' Indiana Statutes Annotated, 54-612, Baldwin's Indiana Statutes 14029) is not such a judgment as is referred to in the Indiana Intangibles Tax Act. (11 Burns' Indiana Statutes Annotated 64-901 to 64-940, Baldwin's Indiana Statutes) Section 1 of the Indiana Intangibles Tax Act defines the term "intangibles" as follows: