TAX COMMISSIONERS, STATE BOARD OF: Mortgage exemptions, right of non-residents to, for taxes payable in 1939.

April 13, 1939.

Hon. Philip Zoercher, Chairman,
State Board of Tax Commissioners,
State House,
Indianapolis, Indiana.

My dear Mr. Zoercher:

Your letter of April 12, 1939, submits to this office a request for an official opinion on the following question:

"Does Senate Bill No. 155, which is An Act entitled An Act to amend sections 57, 58 and 59 of "An Act concerning taxation — repealing all laws in controversy therewith and declaring an emergency," approved March 11, 1919, and declaring an emergency, prohibit a non-resident of the State of Indiana from filing and obtaining a mortgage exemption on real estate in this State for the tax payable in 1939?"

This amendment was passed and signed by the governor on March 2, 1939. Section 57 of chapter 59 of the Acts of 1919, which is Sec. 64-209, Burns Indiana Statutes, 1933, provides as follows:

"Any person being the owner of real estate liable for taxation with (within) the State of Indiana, and being indebted in any sum secured by mortgage upon real estate, may have the amount of such mortgage indebtedness, not exceeding one thousand dollars ($1,000), existing and unpaid upon the first day of March of any year, deducted from the assessed valuation of mortgage premises for that year, and the amount of such valuation remaining after such deduction shall have been made shall form the basis for assessment and taxation for said real estate for said year; Provided, That no deduction shall be allowed greater than one-half of such assessed valuation of said real estate."

It is to be noted that the language of this section says:

"** * * existing and unpaid upon the first day of March of any year, deducted from the assessed valuation of mortgage premises for that year ** * *.”
As Senate Bill No. 155 did not go into effect until March 2, 1939, we are clearly of the opinion that said bill does not affect in any way the right of a non-resident holder of real estate to file and obtain a mortgage exemption in 1939.

In other words we are of the opinion that said Act is not effective as to non-residents until March 1, 1940.

LIBRARY, INDIANA STATE: Petition for levy for county library tax, whether defeated by fact that number of remonstrators exceeds petitioners in any one township.

April 13, 1939.

Hon. Christopher B. Coleman, Director,
Indiana State Library,
Indianapolis, Indiana.

Dear Sir:

I have before me your request for an official opinion concerning the effect of a remonstrance against the levying of a county library tax as provided in chapter 124 of the Acts of the General Assembly of 1939, approved March 9, 1939.

Your question is as follows:

"If the number of freeholders signing the remonstrances in any one township exceeds those who sign the petition in that township, will such fact defeat the levy as provided in said Act?"

In my opinion the answer to your question is that such fact would not necessarily defeat the levy. However, I do not think the answer to this question, as stated, is quite sufficient to meet fully the questions which you have in your mind, and for that reason I will discuss the above Act more fully.

Section 1 of this Act provides for the case of a county in which there is no free public tax supported library in any city or town therein. Section 2 provides for the case where the library board of any public library established in any city or incorporated town of the State shall file notice with the Board of County Commissioners of any county of the consent of such board to make its library open and free to all the people of the county who do not already have free library privileges on the condition of the county contributing to the support of such