such issuance and who have been for the full period of six months next preceding, citizens and bona fide residents of the State of Indiana."

I do not think the term "honorably discharged" as used in the above statute has reference to any particular form of discharge which may be issued by the government, and in my opinion, a discharge "for convenience of the government," unless there are other circumstances appearing in the discharge, is properly treated as an honorable discharge within the meaning of the above section.

I call your attention, however, to the fact that the privilege of the statute extends only to honorably discharged soldiers, sailors and marines, who served in the United States army or navy in the "civil war, the war with Spain, the Philippine insurrection, or the war with Germany."

The application in this particular case shows an enlistment on the 15th day of April, 1921, and a discharge on the 21st of December, 1921. The enlistment in this case was long after the close of the war with Germany.

For the above reason, I do not think the applicant brings himself within the terms of the statute.

PUBLIC INSTRUCTION, DEPT. OF: County superintendent —Whether township trustee may vote for himself for such office—Manner of choosing county superintendent.

May 26, 1933.

Hon. Grover Van Duyn,
Assistant Superintendent,
Department of Public Instruction,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter submitting the following questions:

1. "May a township trustee, who is also candidate for county superintendent, participate in the balloting for the office of county superintendent?

2. "May the trustees choose by ballot any qualified person for the place although such name may not have been formally placed in nomination?"

Section 6507 of Burns Annotated Indiana Statutes of 1926 provides that:

> "The township trustees of each county of this state shall meet at the office of the auditor of their county on the first Monday in June, 1917, at ten o'clock a. m., and every four years thereafter and elect by ballot a county superintendent for their county."

The section further provides that:

> "In all elections of a county superintendent, the county auditor shall be the clerk of such election; and in case of a tie vote, the auditor shall cast the deciding vote."

The section further provides as follows:

> "In case any one candidate shall receive a number of votes equal to one-half of all the trustees of the county, the county auditor shall then and at all subsequent ballots cast his vote with the trustees until some candidate shall receive a majority of all the votes in the county, including the county auditor."

It has been held by the supreme court in the case of Hornung v. State, ex rel., 116 Ind. 458, that a trustee can not legally vote for himself for the office of county superintendent and a vote so cast cannot be counted in determining the result of the election.

The court in the above case used the following language in discussing the public policy underlying its decision:

> "A township trustee is the agent of his township in the transaction of its business, and hence, in the performance of his duties, he acts in a fiduciary, as well as an official, capacity. Therefore, the rule which requires fair dealings and disinterested conduct on the part of an agent or trustee towards those he represents, applies, with full force, to a township trustee.
>
> "The law will not allow an agent or a trustee to place himself in such an attitude toward his principal, or his *cestui que trust*, as to have his interest conflict with his duty, and a township trustee is as much amenable to that rule as any other agent or trustee.

As applicable to private rights, the enforcement of such a rule is imperatively necessary, and, as a matter of public policy, the recognition of such a rule is of equal, if not greater, importance. Greenhood Public Policy, 302.

"A public officer is impliedly bound to exercise the powers conferred on him with disinterested skill, zeal and diligence, and primarily for the benefit of the public. It is, also, the duty of a public officer, having an appointing power, to make the best available appointment, and, in such a case, the right of appointment is not, in any sense, the property of the officer possessing the appointing power. It is the policy of the law to secure the utmost freedom from personal interest, or undue influences, in the selection of public officers, whether elective or appointive."

Hornung v. State, ex rel., 116 Ind. 458, at p. 462.

While in the above case, the question decided is that the trustee cannot vote for himself, in my opinion, the principle which seems to be the basis for the opinion as above expressed, shows clearly that a trustee should not participate in an election of county superintendent at which election he is a candidate for the office and for which office he has been formally nominated.

Your first question is answered in the negative.

The statute with reference to the method of the election of county superintendents does not expressly provide that the various candidates shall be formally placed in nomination. Ordinarily, in a case such as is presented here, I think the electors, consisting of the trustees, in providing for an order of business, may require that candidates be formally placed in nomination, but in the absence of such a regulation, I do not think there is anything in the statutes which requires a formal nomination of a candidate.