the act. And the act provides that such persons "only" as are named therein "may hunt, fish or trap without a license therefor." That part of the waters of Lake Michigan which is within the jurisdiction of Indiana constitutes a part of the public waters of this state and is subject to the operation of our fish and game laws unless expressly excepted.

PUBLIC INSTRUCTION, DEPT. OF: Whether trustee may legally split his vote half and half making it possible for auditor to cast deciding vote for county superintendent.

July 13, 1933.

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

Dear Sir:
I have before me your letter of June 16, 1933, submitting the following question:

"Can a trustee legally split his vote giving one-half a vote to each of two different candidates for county superintendent, thus bringing about a tie vote and in this way making it possible for the auditor to cast the deciding vote?"

The statute controlling elections of county superintendents by the township trustees of each respective county is section 6507 Burns Annotated Indiana Statutes, Revision of 1926. So much of the section as is pertinent to the question presented reads as follows:

"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. * * * 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. 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. * * *" (My italics.)

A "ballot" has been defined as the instrument by which the voter expresses his choice between two candidates or two propositions.

Clary v. Hurst, 138 S. W. 566;
Davis v. Brown, 34 S. E. 839;
State v. Custer, 66 Atl. 306.

It means a secret voting, as contradistinguished from that of a showing of hands or a viva voce voting.

Lynch v. Malley (Ill.), 74 N. E. 723;
Williams v. Stein, 38 Ind. 89, 90, 96;

The "ballot" originally denoted a little ball, a bean, a grain of corn, a coin or other small article which could be concealed in the hand so that others might not know how the voter cast his vote. Later a slip or piece of paper was substituted, and out of this grew our present Australian ballot system.

Lynch v. Malley, supra.

The word "vote," used as a noun, has been defined almost universally as the expression of the choice or preference of a voter.

State v. Blaisdell (N. D.), 119 N. W. 360, 363;
People v. Pease (N. Y.), 84 Am. Dec. 242;
Words and Phrases, Vol. 8 (Second Series, Vol. 3).

It seems beyond dispute that it would be impossible to split a vote where the voting is by a showing of hands, or where, as in the historical origin of the word "ballot," the vote was cast by depositing a ball, bean, grain of corn, coin or other small article. Furthermore, a split vote would not be an expression of choice or preference as between two or more candidates, and would not constitute a "vote" within the true ordinary meaning of the word. When a person's ballot makes no choice between two candidates, then he casts no vote for either of the candidates.

Davis v. Brown (W. Va.), 34 S. E. 839, 841.
In the absence of anything in the statutes indicating the use of the words "ballot" and "vote" otherwise than with their accepted meanings, it is my opinion, that a "split" vote such as you refer to constituted no vote at all, and the effect would be the same as though the elector failed to cast a vote for either candidate. The language of the legislature, throughout the section in question, supports the natural assumption that the word "vote" was intended to convey the meaning of an indivisible unit.

TEACHERS' RETIREMENT FUND BOARD: Opinion on transcript of proceedings relative to bond issue of Tippecanoe School Township, Pulaski County.

July 13, 1933.

Hon. Robert B. Hougham,
Executive Secretary,
Teachers' Retirement Fund Board,
Indianapolis, Indiana.

Dear Sir:
I have before me your letter of July 12, 1933, stating that the state teachers' retirement fund board has been offered $25,000 of school construction bonds issued by Tippecanoe School Township, Pulaski County, Indiana. You submit with your letter a transcript of the proceedings relative to such bond issue for my examination and opinion thereon.

I have examined the transcript and attached papers, and it is my opinion that the bonds have been legally issued and are valid and binding obligations of the municipality in question, if the bonds themselves are regular in form. I find that the officers of the municipality have followed the proper procedure, and given the proper notices of their proceedings, as provided by law. I have not had the privilege of examining the bond form used in this issue, and am assuming it to be regular in form and provisions.

A further question has been raised regarding the collectability of such bonds and other bonds issued by municipalities, in view of the provisions of the so-called tax levy limit law. (Chapters 97 and 237, Acts of 1933.) Objections have been made on the theory that there is no guarantee that the county board of tax adjustment, as created by the acts referred to, will authorize or allow a tax levy for the redemption of such