

This Act was amended by Senate Bill Number 270 in the Acts of the General Assembly of Indiana, 1937. This amendment provides and creates the office of county agricultural agent in every county of the State. It contains the further provision that:

“A State Board is hereby created which shall be known as the County Agricultural Agent Board. The County Agricultural Agent Board shall consist of the Director of Agricultural Extension of Purdue University, the State Superintendent of Public Instruction and the Executive Officer of the Division of Agriculture. It shall be the duty of the County Agricultural Agent Board to prescribe the qualifications of County Agricultural Agents. It shall be the duty of the Director of Agricultural Extension Service of Purdue University to appoint, subject to the approval of the County Agricultural Agent Board, in each county in Indiana, a county agent from those qualified, as herein provided.”

It will be noted, therefore, that when this Act becomes effective all appointments shall be made by the Director of Agricultural Extension Service of Purdue University, subject to the approval of the County Agricultural Agent Board. Answering this question specifically, therefore, it is my opinion that until the provisions of the 1937 Act become effective Purdue University may continue to appoint county agents in counties which have qualified under the present law, which appointments shall be subject to the approval of the County Board of Education and the State Board of Education.

GOVERNOR'S OFFICE: Boards and commissions, appointments, term of, in case of vacancy.

April 3, 1937.

Mrs. Martha C. Salb,
Under Secretary,
Indianapolis, Indiana.

Dear Mrs. Salb:

This will acknowledge receipt of your letter of April 1 asking for an opinion as to the manner of issuing commis-

sions to appointees to various boards and commissions where a vacancy occurs by reason of resignation or removal from office during the term of office, prescribed by statute for such appointees.

It is my opinion that the appointment should be made where a vacancy occurs, to fill the office for the unexpired term rather than for the full term prescribed by statute. For instance, many of the statutes creating the boards and commissions to which the Governor appoints, specify the manner of appointment and term of office. This is true even though the Governor has the power, under the particular statute or under the general statute known as the Executive Administrative Act of 1933, to remove from office at any time.

Your attention is directed to section 5, chapter 226 of the Acts of the Indiana General Assembly, 1935, as illustrative of this proposition. This section provides for the appointment of members to the Alcoholic Beverage Commission and contains the following paragraph:

“In the first instance one of such members shall be appointed for a term to expire at the close of December 31, 1935, and one for a term to expire at the close of December 31, 1936, and one for a term to expire at the close of December 31, 1937. Thereafter every member of said commission shall be appointed for a term of four (4) years, and shall serve until his successor shall have been appointed and qualified. Any vacancy which may occur in the membership of the commission for any cause shall be filled by appointment by the Governor for the unexpired term thereof. Any such member of the commission may be removed by the Governor at any time.”

You will note in the above instance that it was the intention of the legislature to stagger the appointment of members to this commission insofar as it was possible so to do to the end that the entire personnel of the commission be not changed at any one time. Accordingly the Act specifically provides that after the first appointments the term of office shall be for four years and in case of a vacancy the appointment shall be for the unexpired term. This is true even

though the Governor is specifically authorized in the Act to remove a board member at any time, which is in effect a statement that such member shall serve at the pleasure of the Governor.

The same situation prevails in the State Board of Clemency. Section 1, chapter 156 of the Acts of the Indiana General Assembly, 1935, provides that one member of the commission shall be selected from the Board of Trustees of the Indiana State Prison and one from the Board of Trustees of the Indiana Reformatory and shall serve so long as he continues as a member of the Board of Trustees of such institution. The Act specifically provides that his term as a member of the commission on clemency shall expire at the same time his term as trustee expires.

The statute provides that the trustees of state institutions shall be appointed for a definite period of years, to wit: Three years at the Indiana State Prison and four years at the Indiana Reformatory. While it is true that these board members are subject to removal from office at the pleasure of the Governor, yet the statute above quoted evidently contemplates their appointment for a definite term unless sooner removed and at the expiration of the statutory period their office automatically becomes vacant.

It is a well recognized rule that statutes are to be construed so as to give each one force and effect so long as the same can be done without irreconcilable conflict. This being true, it is my opinion that where the term of office is fixed by the statute which creates the office and where the statute prescribes that in the event of a vacancy the Governor shall appoint for the unexpired term, that this proceeding should be followed. This does not in anywise conflict with the power of the Governor to remove at any time, which removal simply operates to create a vacancy in the office for the unexpired term.

It is my opinion, therefore, that the statutes should be adhered to insofar as they provide the manner of filling vacancies and a commission should be issued in such cases for the unexpired term.