In fact, the literal interpretation of the proviso could be considered as a legislative approval of the salary previously paid to the Pigeon Township Trustee and as estopping him from claiming any additional salary, even if it be assumed that Pigeon Township was always a Class 2 township.

Therefore, in conclusion, it is my opinion:

1. That the Acts of 1965, ch. 132, has the effect, as of March 6, 1965, of restoring to a Class 2 classification any township which was classed as a Class 2 township in the year 1958, thereby prohibiting a lowering of the classification of such township; and

2. That the proviso contained within §1 of the Acts of 1965, ch. 132, has the effect of validating and legalizing any salary which was “paid to any township trustee of a class two township” prior to March 6, 1965, which salary is not in excess of that salary provided for the classification for salary and allowances for Class 2 townships, but does not require or authorize additional payments to be made of the difference in salary between a Class 2 and a Class 3 township for service prior to said date.

3. That because the Acts of 1965, ch. 132, supra, has the effect of restoring Pigeon Township of Vanderburgh County to a Class 2 classification as of March 6, 1965, the incumbent township trustee of that township is entitled to receive, as his salary from and after said date, the salary applicable to a Class 2 township trustee.

OFFICIAL OPINION NO. 43

October 7, 1965

Mr. Larry R. Mohr, Member
State Board of Tax Commissioners
201 State Office Building
Indianapolis, Indiana

Dear Mr. Mohr:

This is in response to your request for my Opinion concerning certain problems anticipated in connection with the

Your request is attributable to the enactment of the Acts of 1965, ch. 315, which amends the Acts of 1961, ch. 319, § 105, as amended, as found in Burns IND. STAT. ANN., (1965 Supp.), § 64-305, and which 1965 enactment further added § 105 (a) to the Acts of 1961, ch. 319, as found in Burns IND. STAT. ANN., (1965 Supp.), § 64-305a. This act will produce a major change in the taxation of tangible personal property, the full impact of which will not be felt by most taxpayers until 1966 and thereafter.

Prior to said 1965 amendment, the Acts of 1961, ch. 319, § 105, as amended, supra, defined the term “personal property” upon a catch-all basis, which definition of “personal property” meant “all tangible property of any nature or kind other than real property” and specifically included certain classes of personal property expressly mentioned in this section. By contrast, instead of thus defining personal property to be inclusive of all classes of tangible personal property, the 1965 amendment defines the term “personal property” upon a restrictive basis, in that personal property which is to be subject to tax pursuant to the Acts of 1961, ch. 319, as so amended, hereafter will include only those particular classes of tangible personal property which are specifically contained within such definition. This change in the statutory law has been effected by deleting from the Acts of 1961, ch. 319, § 105, as amended, supra, the language “all tangible property of any nature or kind other than real property.”

The definition of “personal property,” effected by the Acts of 1965, ch. 315, §§ 1 and 2, as found in Burns IND. STAT. ANN., (1965 Supp.), §§ 64-305 and 64-305a, is as follows:

64-305 “When used in this act, the term ‘personal property’ means and includes the following:

“(a) Nursery stock when severed from the ground,
“(b) Florists’ stocks of growing crops when ready for sale as pot plants on benches,
“(c) Billboards and other advertising devices when located upon real property not owned by the owner of such devices,
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“(d) Motor vehicles, mobile homes, airplanes, boats and trailers; and

“(e) All other tangible property, other than real property, of any nature or kind being held for sale in the ordinary course of a trade or business or being held, used or consumed in connection with the production of income or being held as an investment. No commercially planted and growing crops while in the ground shall be considered personal property.”

64-305a “When used in this act, the term ‘tangible property’ means all real property as defined in this act and all personal property as defined in this act.”

Because of such change in the basis by which “personal property” is defined, the new definition of that term (effected by said 1965 enactment) results in excluding from the definition of “personal property” all classes of personal property not therein specifically enumerated. Thus, not only so-called “household goods,” but also all other kinds of tangible personal property, not includable within the classes of property comprising “personal property,” as so defined, will be nontaxable unless they are taxable pursuant to some act other than the Acts of 1961, ch. 319, as amended, supra. With the preceding background, certain substantial problems become apparent. Among these, are the following:


1. At the outset, it should be observed that the Acts of 1965, ch. 315, supra, does not indicate an express intent to supersede other acts which provide another system for the taxation of tangible property which is includable within the 1965 definition of “personal property.” For instance, although §§ 1 (d) and 1 (e) of that 1965 Act specifically include tangible property which heretofore has been taxed pursuant to the Mobile Home Tax Act of 1953 [Acts of 1953, ch. 169, as amended, as found in Burns IND. STAT. ANN.,
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(1961), §§ 64-622a to 64-622i] and the “Public Utility Tax Act of 1949” [Acts of 1949, ch. 34, as amended, as found in Burns IND. STAT. ANN., (1961), §§ 64-1801 to 64-1817], nevertheless, such property should continue to be taxed pursuant to said special 1953 and 1949 Acts, as amended, respectively. Among the reasons for continuing to apply said 1953 and 1949 Acts are: (a) repeal by implication is not favored, especially if such a construction were to effect the repeal of an entire statute; (b) whenever both a general and a special statute concern the same subject matter and are in seeming conflict, the provisions of the special statute are held to prevail; and (c) § 2013 of the Acts of 1961, ch. 319, as found in Burns IND. STAT. ANN., (1961), Note following § 64-1709, provides:

“Sec. 2013. Nothing contained in this act shall be so construed as to repeal, modify or amend the provisions of Chapter 34 of the Acts of 1949 as amended or the provisions of Chapter 169 of the Acts of 1953 as amended.”

Moreover, § 2 of said Acts of 1953, ch. 169, was specifically amended by the Acts of 1965, ch. 231, § 1, as found in Burns IND. STAT. ANN., (1965 Supp.), § 64-622b.

2. Next, it should be observed that §§ 1 (a), 1 (b), 1 (c) and 1 (d) of the 1965 Act are specific in describing the kinds of tangible property therein mentioned which are to be included in the definition of “personal property.”

3. However, § 1 (e) of the 1965 Act does not specifically describe the kinds of tangible property which are to be therein included in the definition of “personal property,” but instead provides the standards by which such kinds of tangible property are to be determined. These standards are such property as is:

(i) “being held for sale in the ordinary course of a trade or business or”

(ii) “being held, used or consumed in connection with the production of income or”

(iii) “being held as an investment.”

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[The language of said § 1 (e) of said 1965 Act is substantially identical with that in the Acts of 1963, ch. 48, § 2 (2) and the Acts of 1965, ch. 482, § 2 (2), within the proposed amendment to the Indiana Constitution, art. 10, § 1, as constituting tangible personal property which (if such proposal is ratified by the electors pursuant to the Indiana Constitution, art. 16, § 1) will not be eligible for exemption from taxation by the Legislature. This language was also discussed briefly in 1964 O.A.G., pages 52, 56, No. 15.]

Without a more definite enumeration of the kinds of tangible personal property includable in § 1 (e) of the Acts of 1965, ch. 315, it will be necessary that an official interpretation of the meaning of this section be issued, which interpretation must conform to the standards of said 1965 definition of "personal property." This is the duty of the State Board of Tax Commissioners. The Acts of 1961, ch. 319, § 1503, as amended, as found in Burns IND. STAT. ANN., (1965 Supp.), § 64-1233, provides:

"The state board of tax commissioners shall construe the property tax and revenue laws of this state and instruct taxing officers in relation to their duties with reference to taxation and assessment."

II. The next basic problem concerns the question of whether personal visitation upon each taxpayer by the township assessor or his deputy is required for the listing and assessment for taxation of tangible personal property for 1966 taxes payable in 1967 and thereafter?

This problem results from a further effect of the Acts of 1965, ch. 315 (hereafter discussed) and the Acts of 1961, ch. 319, § 402, as found in Burns IND. STAT. ANN., (1961), § 64-602, which provides:

"Between the assessment date and the filing date of each year, the assessor shall call upon each person required by this act to be assessed, and furnish him or her with the necessary returns. The taxpayer shall in completing the returns make a full and complete disclosure of such information as may be required by the state board of tax commissioners, relating to the value, nature and location of all the personal property
of which he was the owner or which he held, possessed or controlled in any capacity whatsoever on the assessment date of the current year. The taxpayer shall certify to the truth of all information appearing on the tax return."

Because the Acts of 1961, ch. 319, § 105, as amended by the 1965 Act, Burns 64-305, supra, results in now confining that personal property which is subject to taxation under said 1961 Act to the specific classes of property therein named, a further effect is that, for 1966 taxes payable in 1967 and thereafter, such taxes upon the "personal property" of a vast number of taxpayers will be imposed only upon Class (d) personal property, to wit:

"(d) Motor vehicles, mobile homes, airplanes, boats and trailers; ..."

With respect to other classes of "personal property" which are subject to taxation under said 1965 Act, the same must consist of Classes (a), (b), (c) or (e), which constitute such "personal property" as is used: in connection with a business, such as a nursery, florist, advertising business or activity; is held for sale in the ordinary course of a trade or business; is being held, used or consumed in connection with the production of income; or is being held as an investment. Thus, it is probable that a vast number of taxpayers will be subject to taxation for "personal property" owned, possessed or controlled by them only upon their motor vehicles, since such number do not, ordinarily, own, possess or control the other classes of "personal property" which are subject to taxation pursuant to said 1965 amendment.

From the foregoing, the practical necessity for personal visitation by the township assessor or his deputies upon each taxpayer and the justification for the continued expenditure of substantial funds to employ numerous deputies township assessor, many of whose duties would amount to little more than the delivery of tax return blanks, become serious problems, especially when governmental bodies, as well as taxpayers, are seeking means to eliminate the unnecessary expenditure of public funds so as thereby to prevent any unnecessary increase in tax rates. The actual necessity for such personal
visitation by the township assessor or his deputies fades from the realm of actuality when we realize that all of the information relative to the number and identity of motor vehicles owned, possessed or controlled by each resident of each township is already available to the county assessor.

The Acts of 1945, ch. 304, § 46, as found in Burns IND. STAT. ANN., (1952), § 47-2623, provides:

"The commissioner [Commissioner of Motor Vehicles] shall annually prepare index cards showing thereon the names and addresses of all holders of certificates of registration together with the make, style of body, year of manufacture and date of purchase. Such index cards shall be prepared according to counties as soon as is practicable after such vehicle shall have been registered and shall be furnished to the county assessors of the respective counties free of charge."

(Bracketed material supplied.)

In practice, such "index card" is the second carbon copy of the application for "Certificate of Registration," which is on the form prescribed by the Bureau of Motor Vehicles, pursuant to the Acts of 1945, ch. 304, § 25, as amended, as found in Burns IND. STAT. ANN., (1964 Supp.), § 47-2602, which provides, in part:

"... Every such application shall bear the signature of the owner written with pen and ink and said signature shall be acknowledged by the owner before a person authorized to administer oaths and such application shall contain:

"1. The name, bona fide residence and mail address, including the name of the county, of the owner or the business address, including the name of the county, of the owner, if a firm, co-partnership, association, corporation or unit of government.

"2. A brief description of the vehicle to be registered, including insofar as the hereinafter specified data may exist with respect to a given vehicle, the name of the manufacturer, the engine number, the serial number, the character and amount of motive power thereof, stated in figures of horsepower, in accord-
In addition to the information specifically required by the above statute, among "such further information as may reasonably be required by the department to enable it to determine whether the vehicle is lawfully entitled to registration" is a space for answer to the question: "Date vehicle was purchased?" Therefore, at the time the fully-executed application for "Certificate of Registration" is filed with the Bureau of Motor Vehicles, a fully-executed "Assessor Copy" is also filed so as to be available immediately thereafter to the county assessor. Thus, not only the name of the owner of the particular vehicle, but also his *bona fide* residence and mailing address, the identity and description of each such vehicle and the date of its purchase by such owner can be available to such county assessor immediately after the filing of such application. However, because applications for "Certificates of Registration" may be made at any time in the year (although the vast majority are filed between January 1 and March 1), the information contained upon the "Assessor Copy" of such application, when filed prior to March 1, would not be conclusive that such motor vehicle will be owned on the "assessment date" (March 1) of the particular tax year. It would not, therefore, follow that the assessment in each case could be accurately made from such information, even as to such taxpayers who had no other "personal property" subject to taxation, although in the many instances in which ownership of such vehicle on March 1 is shown to be a fact, such information would ordinarily be sufficient upon which to base an accurate and valid assessment of such property.

The problem of whether "personal visitation" in all instances is required of the township assessor or his deputies is because of the language in Burns IND. STAT. ANN.
(1961), § 64-602, supra, stating that such assessor "shall call upon each person required by this act to be assessed, and furnish him or her with the necessary returns." For reasons hereafter appearing, it is my opinion that such language does not require personal visitation.

In the case of *State ex rel. Carter, Prosecuting Attorney v. Farmers' Elevator Co.*, 72 Ind. App. 691, 126 N.E. 442 (1920), the Appellate Court of Indiana considered what appears to be substantially identical language to that now found in Burns IND. STAT. ANN., (1961), § 64-602, supra. The statutory language involved in said case, being § 10197, Burns 1914, provided:

"On the first day of March of each year, or as soon thereafter as practicable, and before the 15th day of May, the assessor shall call upon each person required by this act to be assessed, and furnish him or her with the proper blanks for the purpose...."

Said case did not concern the taxable or nontaxable status of the property involved, but rather concerned the question of whether the taxpayer was liable for a statutory penalty for not having filed a tax return. Respecting the question of the liability for such statutory penalty, that Court then said, at page 694 of 72 Ind. App.:

"The statute in question is highly penal. It provides that the penalty therein named shall be incurred 'in case of the failure or refusal' to make the report therein required. The use of the word 'refusal' therein would indicate that some other person should make a request for the return therein mentioned to be made. As we construe these various sections, we hold that it was the duty of the township assessor to call upon the appellee and furnish it with the proper blank upon which to make the report in question, and that until this was done the appellee, not having had an opportunity to make the report, was not liable to the said statutory penalty." (Emphasis added.)

However, said case does not hold that the taxpayer was excused from liability for the tax solely because of the failure
of the township assessor to have furnished the blanks necessary for reporting the property. It is so apparent as to require no authority that no person can be excused from his liability for taxes solely on account of the failure of an administrative official to furnish the necessary returns for reporting such tax liability. Any such holding which would result in so excusing a taxpayer solely upon such basis would obviously be contrary to the express provisions of the Ind. Const., art. 10, § 1.

Not only was the Carter case, supra, concerned with the right to impose the statutory penalty upon the taxpayer, but the case was based upon a penalty provision which then included the element of the "refusal" to make the return required by the statute. By the use of the word "refusal" in the statute the Court concluded that, for the penalty to apply, a demand by the assessor must be made for the execution of the return as a prerequisite to the right to impose the penalty. Referring to the penalty provision which is now contained within the Acts of 1961, ch. 319, § 1303, as amended, as found in Burns IND. STAT. ANN., (1965 Supp.), § 64-1103, it will be noted that the penalty thereby imposed is for the situation "When any person fails to file a return, statement, or other document, as required by this act..." It is noteworthy that said penalty provision no longer contains the word "refusal" or any words synonymous thereto. Thus the penalty provision as found in Burns IND. STAT. ANN., (1965 Supp.), § 64-1103, supra, now imposes the penalty for failure to file a return as required by the 1961 Act, without regard to whether the township assessor has or has not made a demand upon the taxpayer for the filing of such return.

Referring to the Acts of 1961, ch. 319, § 403, as amended, as found in Burns IND. STAT. ANN., (1965 Supp.), § 64-603, it will be seen that the duty is imposed upon the taxpayer to file returns with the assessor of each township in which his personal property is subject to assessment. Whenever the taxpayer is unable to file such a return in accordance with the provisions of the statute, it is the further responsibility of the taxpayer to make written application for an extension of time within which to file such return. Said section, as found in Burns IND. STAT. ANN., (1965 Supp.), § 64-603, supra, provides:
"On or before the filing date of each year the taxpayer shall file returns with the assessor of each township in which his personal property is subject to assessment. However, when a taxpayer has been prevented from filing a return by reason of sickness, absence from the county or other good and sufficient reason, on written application by the taxpayer, prior to the filing date, the assessor may grant to the taxpayer an extension of time within which to file his return of up to thirty [30] days from the filing date."

Also, the Acts of 1961, ch. 319, § 406, as amended, as found in Burns IND. STAT. ANN., (1965 Supp.), § 64-606, provides:

"The assessor shall examine each return filed by a taxpayer, shall verify the accuracy of the return, and, where appropriate, compare it with the books of the taxpayer and with a physical examination of the properties owned, held, possessed, controlled or occupied by the taxpayer." (Emphasis added.)

From the above-quoted section, it will be seen that the statute does not require that the assessor make a personal physical examination of the properties owned, held, possessed, controlled or occupied by the taxpayer. Instead, said section grants to the assessor the discretion to determine when it is appropriate that he shall make such a physical examination of such properties. Thus, there is no longer the requirement that the assessor, in all instances, make a personal visitation upon the taxpayer for the purpose of himself viewing and making a physical examination of the properties listed in the taxpayer's schedule of property. In the case of motor vehicles, there is no practical need for such a physical examination of such property for two reasons. First, the township assessor is able to verify the description of the motor vehicle listed upon the taxpayer's tax return by comparison with the "Assessor Copy" of the application for "Certificate of Registration" which the taxpayer has filed with the Bureau of Motor Vehicles in order to secure his license plates. Second, by the use of the specific information contained both upon the taxpayer's return and the "Assessor Copy" of the appli-
cation for "Certificate of Registration," the assessor will be able to determine the "true cash value" and resultant "assessed value" of such motor vehicle by the use of the Red Book values. For many years past, the reliability of the Red Book, published by the National Market Reports, Inc. of Chicago, Illinois, has been recognized not only by the automobile industry, but said book has also become established as the guide by which the assessed valuation of motor vehicles is determined for ad valorem tax purposes.

Moreover, even in those instances in which the taxpayer has failed to file a return, the assessor is required to assess such property as is taxable, for the Acts of 1961, ch. 319, § 407, as amended, as found in Burns IND. STAT. ANN., (1965 Supp.), § 64-607, provides:

"In connection with the activities required by sec. 406 [§ 64-606] or where a person owning, holding, possessing, or controlling any property fails to file a return with the assessor as required by this act the assessor shall examine the property, the books and records of such person, and, under oath, such person or any other person whom the assessor believes to have knowledge of the amount, identity, or value of the property reported or not reported by such person on a return. After examination the assessor shall assess the property to the person owning, possessing, or controlling that property."

In Burns IND. STAT. ANN., (1961), § 64-602, supra, it is recognized that the word "shall" precedes the words "call upon." The word "shall" is ordinarily used in its imperative sense, as was recently held in the case of Wetzel v. Andrews, — Ind. App. —, 198 N.E.2d 19, 21 (1964). However, in 43 Am. Jur., Public Officers, § 259, it is stated in part, as follows:

"In general, statutory provisions directing the mode of proceeding by public officers and intended to secure order, system, and dispatch in proceedings, and by a disregard of which the rights of parties cannot be injuriously affected, are not regarded as mandatory, unless accompanied by negative words importing that the acts required shall not be done in any other manner or time than that designated. . . ."
Also, in *Risley, Auditor v. Rumble*, 81 Ind. App. 573, 584, 144 N.E. 568 (1924), the Court said:

“There is a general rule founded on sound reason and principle which requires that when construing a tax law all those provisions which are intended to secure methodical procedure shall be regarded as merely directory, and that only those provisions which are necessary to the protection of the citizen shall be regarded as mandatory. Sutherland, Statutory Construction § 455; *Sibley v. Smith* (1853), 2 Mich. 487; *Clark v. Crane* (1858), 5 Mich. 151, 71 Am. Dec. 776; *Torrey v. Milbury* (1838), 21 Pick. (Mass.) 64; *Millikan v. Crail* (1912), 177 Ind. 426. That rule is applicable even in the law of taxation by special assessment. That is to say, a literal compliance with those directions which are not essential to the protection of the citizen is not essential to the validity of the tax. . . .”

Furthermore, in 26 I. L. E., Statutes, § 135, p. 353, is the following:

“The word ‘shall,’ appearing in a statute, does not have an exclusive, fixed, or inviolate connotation; ordinarily the word ‘shall,’ when used in a statute, is presumed to be used in a mandatory sense, and will be construed in an imperative sense, rather than directory, unless it clearly appears from the context or from the manifest purpose of the act as a whole that the Legislature intended that a different construction should be given to the word. The word ‘shall’ may be construed to mean ‘may’ to prevent defeat of the legislative intent, and the word may be held to be merely directory when no advantage is lost, when no right is destroyed, or when no benefit is sacrificed, either to the public or to any individual, by giving it that construction.” (Emphasis added.)

From the foregoing discussion of the various sections of the “Property Assessment Act of 1961,” as amended, it is clear that the term “shall,” as used in § 402 thereof, was never intended as having been meant in the mandatory or imperative sense so that the failure of the township assessor to call
upon each individual taxpayer would thereby excuse the taxpayer from the obligation to pay *ad valorem* taxes. This proposition seems evident from the requirement of Burns IND. STAT. ANN., (1965 Supp.), § 64-603, *supra*, requiring the taxpayer either to file his return on or before May 15, or, in the case of his inability to do so for good and sufficient reason, to secure an extension of time within which to file such return. Moreover, in the case of the failure of the taxpayer to file the return with the assessor as required by the act, then Burns IND. STAT. ANN., § 64-607, *supra*, requires the assessor to make the assessment from the best information available, which may include an examination of the property, the books and records of such person and an examination, under oath, of either the taxpayer or any other person whom the assessor believes to have knowledge concerning the amount, identity or value of the property involved.

Although the practice by the township assessor of mailing personal property tax returns to the taxpayer may not, in the past, have prevailed, apparently the legality of such practice has been heretofore approved on an administrative level. Reference to the last three versions of “Regulation No. 16 for Assessment of Tangible Personal Property prepared by the State Board of Tax Commissioners of Indiana” discloses that each such regulation contains the following provision:

“Pursuant to Section 402 of the Property Assessment Act of 1961, township assessors shall by mail or otherwise furnish taxpayers with return forms and instructions immediately after March 1 of each year.”

(Emphasis added.)

The above-quoted provision is a part of said Regulation No. 16, being:

SEC. 2.9, of said Regulation No. 16, effective January 1, 1962;

SEC. 2.11, of said Regulation No. 16, effective January 4, 1963; and

SEC. 2.11, of said Regulation No. 16, effective December 20, 1963, which last said Regulation No. 16 is still in full force and effect.
Each of said versions of such Regulation No. 16 was duly adopted and promulgated according to the procedure required by the Acts of 1945, ch. 120, including notice by publication of a public hearing, the holding of a public hearing thereon, and the approval of the same as to legality and form by the Attorney General of Indiana.

In the case of *Gross Income Tax Div. v. Colpaert Realty Corp.*, 231 Ind. 463, 478, 479, 109 N.E.2d 415 (1952), our Indiana Supreme Court stated:

"While not controlling, the contemporaneous construction of a statute by those charged with the administration of it is entitled to great weight, and should not be interfered [sic] with unless there are very cogent and persuasive reasons for departing from it. *Wysong v. Automobile Underwriters, Inc.* (1933), 204 Ind. 493, 184 N.E. 783, 94 A.L.R. 826; *United States v. American Trucking Associations* (1940), 310 U.S. 534, 84 L.Ed. 1345, 60 S. Ct. 1059; *Fawcus Machine Co. v. United States* (1931), 282 U.S. 375, 75 L.Ed. 397, 51 S.Ct. 144; 42 Am. Jur., Public Administrative Law 392. Particularly is this true where, as here, the legislature by inaction continuing through several sessions, has indicated satisfaction with that construction. *County Department, etc. v. Scott's Estate* (1944), 115 Ind. App. 28, 55 N.E.2d 337; *Hindman v. State* (1943), 221 Ind. 611, 50 N.E.2d 913; 50 Am. Jur., Statutes 318."

In the present problem we are dealing both with a contemporaneous construction of the statute by the State Board of Tax Commissioners, which Board is charged by law with the duty of administering the "Property Assessment Act of 1961," as amended, and also with the situation in which there have been at least two regular sessions of the General Assembly since such administrative interpretation was first made. Moreover, such administrative interpretation is by means of an officially promulgated and published regulation, which was the result of a notice by publication of hearing, the holding of a public hearing, the approval by both the Attorney General and Governor of Indiana and the filing of such regulation in both the office of the Secretary of State and of the Legislative
Reference Bureau of Indiana. There having been no change made by the Legislature to Section 402 of the Acts of 1961, ch. 319, such inaction may be construed as indicating satisfaction with the interpretation which has been placed upon such section by said three versions of Regulation No. 16 of the State Board of Tax Commissioners relative to the assessment of personal property.

In conclusion, it is my opinion that personal visitation by the township assessor upon each taxpayer for the purpose of furnishing tax returns is not necessary, but that such blank returns may be furnished to the taxpayer by means of the United States mails. It should be noted that if the "Assessor Copy" of the application for "Certificate of Registration" is distributed immediately by the county assessor or with his approval to the appropriate township assessors, they will thereby have what should be a current, accurate mailing address for the owner of the motor vehicle listed upon such application.

Appropriate administrative rules should be promulgated by both the Commissioner of the Bureau of Motor Vehicles (to be controlling upon all license branches of such bureau) and by the State Board of Tax Commissioners (to be controlling upon all county assessors), which rules should set forth a uniform system designed to insure that each "Assessor Copy" is distributed, with dispatch, to the appropriate township assessor because of its importance to a proper assessment. The rules should be clear and definite, and should provide that such procedure is mandatory and prescribe the maximum time within which the transmittal of all such "Assessor Copies" to the township assessors must be completed.

Because of the substantive changes which will be effected in the taxation of personal property by the Acts of 1965, ch. 315, supra, as discussed in the first part of this opinion, it will be necessary that the State Board of Tax Commissioners adopt a new regulation for the assessment of tangible personal property which will be in accord with said act. In such regulation it will further be necessary that the personal property which is now subject to taxation by said law be clearly specified, that the procedures for distributing tax forms, reporting and assessing such property are set forth therein, and such regulation must officially adopt whatever forms are required
or to be used for carrying said act into full force and effect. As required by the Acts of 1961, ch. 319, § 1408, as amended, as found in Burns IND. STAT. ANN., (1965 Supp.), § 64-1208, such regulation and each and every part thereof, together with such forms, must be adopted and promulgated in compliance with the provisions of the Acts of 1945, ch. 120.

OFFICIAL OPINION NO. 44

October 8, 1965

Hon. Thomas J. Murphy
Indiana State Representative
21 North Hawthorne Lane
Indianapolis, Indiana

Dear Representative Murphy:

Your recent letter and a letter received in conjunction therewith from the Marion County Sheriff request an interpretation of that portion of 1 R.S. 1852, ch. 28, § 1, as amended by Ind. Acts of 1855, ch. 41, § 1; Ind. Acts of 1925, ch. 164, § 1; Ind. Acts of 1959, ch. 314, § 1, Burns IND. STAT. ANN., § 49-501, which reads as follows:

"The . . . county sheriff, . . . may appoint deputies, when necessary or when required, if provision shall have been made for paying such deputies for their services from the funds of the state or of the county or from fees received for their services. . . ."

You have asked for my Official Opinion as to whether the portion of the statute quoted above prohibits a county sheriff from appointing deputies to serve without compensation from public funds where the individuals who are to be appointed are otherwise qualified according to law.

In view of the fact that the portion of the statute quoted above also applies to the appointive powers of the Secretary of State, the State Auditor, the State Treasurer, the clerk and sheriff of the Supreme Court, the clerk of every circuit court and all county auditors, treasurers, recorders, coroners, surveyors, prosecuting attorneys and township assessors as well as county sheriffs, it follows that the answer to be given