inasmuch as his term as such commissioner will not expire prior to the commencement of the term of office of mayor. In addition, the ineligibility could not be cured by his resignation as county commissioner. In view of the conclusions set forth above, I do not feel that further specific answers to the questions submitted are appropriate or necessary.

OFFICIAL OPINION NO. 68

December 4, 1962

Mr. Robert R. McClarren, Director
Indiana State Library
140 North Senate Avenue
Indianapolis 4, Indiana

Dear Mr. McClarren:

I am in receipt of your letter of October 21, 1962, requesting my Official Opinion concerning the construction of the provisions of Acts 1947, Ch. 321, Sec. 14b, as added by Acts 1953, Ch. 13, Sec. 5, and as found in Burns' (1962 Supp.), Section 41-914b. Your specific questions are as follows:

"1. When on receipt of a proposal from the board of a public library of a town, to combine with a township to form a single town-township library district the township trustee and the advisory board of the township agree to such a merger (in lieu of a petition from resident voters of the township) must the township trustee publish the proposal for merger?

"2. If the advisory board of the township, having agreed to merger in lieu of accepting the petition of resident voters of the township, receives remonstrances to its action, must the advisory board heed these remonstrances and at its first meeting follow the provisions of the law cited above regarding remonstrances?

"3. If the township trustee and the advisory board of the township agree to the merger can a town within that township be excepted from inclusion in the town-township library district?"

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In order to answer your questions, it is first necessary to refer to the section in question. Burns' 41-914b, *supra*, reads as follows:

"The board of the public library of any city or town may file a proposal of merger with the township trustee and advisory board of the township or townships in which the library is located, or any other township. Such proposal shall state that said library is willing to combine with such township, townships, or portion thereof, to form a single town-township library district. On the receipt of such proposal the township trustee and advisory board may agree to such merger or upon petition of five per cent [5%] of the resident voters of said township, or portion of township, shall agree to such merger, unless a remonstrance or remonstrances against the same signed by as many resident voters of the township, or portion of the township, as have signed the petition shall be filed with the township trustee as hereinafter provided. Notice of the petition for acceptance of the proposal for merger shall be published by the township trustee in a newspaper of general circulation in the township. Within ten [10] days after such publication any and every resident voter or group of resident voters shall have the right to sign and file with the township trustee and township advisory board their remonstrance or remonstrances against such acceptance of the proposal of merger. At the first meeting of the township advisory board and not less than ten [10] days after such publication, the advisory board shall consider said petition and such remonstrances and determine whether or not more resident voters of said township, or portion of a township, shall have signed the remonstrances than have signed the petition. If they determine that a greater number have signed the petition than have signed the remonstrances, they shall agree to said merger, which shall become effective when record of said proposal and acceptance thereof shall be filed with the library board, the county recorder and the state library.

"Provided however that where there is an incorporated town in the township, with which it is proposed
to merge, that the library board of the library district may present its proposal of merger to both the township trustee and advisory board and the board of town trustees of the said town; and when such proposals are received by the township trustee and advisory board and by the board of town trustees, each shall follow the procedure and have the same authority as heretofore provided for the township trustee and advisory board.

The above section prescribes the procedure for the creation of a town-township library district. This merger into a single district is initiated by the filing of a "proposal of merger" by the board of the public library with the township trustee and township advisory board. Both your questions Nos. 1 and 2, relate to the procedure to be followed in the acceptance of such proposal. Burns' 41-914b, supra, provides that the township trustee and advisory board may agree to the merger "or" such officers shall agree if a petition in favor of such merger, signed by 5% of the resident voters of the township or portion thereof, is filed with the township trustee. The statute further provides that notice of such petition shall be published and, within ten days, a remonstrance may be filed by other resident voters. The petition and the remonstrance are then considered by the township advisory board, and the one with the greater number of signatures shall prevail.

It should be noted that the word "or" separates the two methods of acceptance of the petition. In its ordinary sense, the word "or" is given its disjunctive meaning, and the various parts of the sentence which it connects are to be taken separately. It is not construed otherwise unless such construction is necessary to effectuate a different legislative intention.

26 I. L. E. Statutes § 120.

I conclude, therefore, that the word "or" is used in this statute in its plain and ordinary sense, that is, to provide alternate methods of accepting a proposal of merger. An examination of the other provisions of the section substantiates this conclusion. The requirements for the publication of a notice refer to the "petition for acceptance." At the hearing, where a remonstrance against the acceptance of the proposal of merger is heard, it is necessary for the township advisory
board to make a determination as to the number of signatures on the petition as opposed to those on the remonstrance. Thus, the procedure set out in the statute for publication, remonstrance, and hearing before the township advisory board refers solely to the petition for acceptance filed by the resident voters, and is not, and could not be, applicable to the acceptance of the proposal of merger by the township trustee and the township advisory board when no petition for acceptance has been filed.

Therefore, in answer to your first question, it is my opinion that, when a township trustee and the advisory board agree to a proposal of merger (when no petition for acceptance has been filed), it is not necessary for the township trustee to publish notice of such proposal. In answer to your second question, it is my opinion that a remonstrance may not be filed against the agreement of the township trustee and the advisory board to merge with the town library when no petition for acceptance has been filed.

Your third question asks whether a town within the township can be excepted from inclusion in the proposed single town-township library. In answering your question, it would be well to set out again the proviso in Burns' 41-914b, supra. Such proviso reads as follows:

"Provided however that where there is an incorporated town in the township, with which it is proposed to merge, that the library board of the library district may present its proposal of merger to both the township trustee and advisory board and the board of town trustees of the said town; and when such proposals are received by the township trustee and advisory board and by the board of town trustees, each shall follow the procedure and have the same authority as heretofore provided for the township trustee and advisory board."

The language of this proviso considers the possibility of the existence of an incorporated town in the township with which the city or town library board wishes to effect a merger. It provides that the proposal of merger may be presented to both the township trustee and advisory board and the board of town trustees of the incorporated town within the township.
Both the township officers and the town officers shall follow the procedure required when a proposal for a merger is presented to only the township officers.

The effect of a proviso is described in 26 I. L. E. Statutes § 151 as follows:

"The general office of a 'proviso' is to except something from the enacting clause, to restrain or modify its generality, or to exclude some possible ground of misinterpretation, or to prevent the enactment clause being extended to include something which was not intended to be brought within its purview." (Our emphasis)

Considering the proviso with the above rule in mind, it is my opinion that the Legislature anticipated a situation wherein a town located in the township, either through its officers or by expression of its resident voters, might wish not to be included in the library district. This opinion is supported by the language preceding the proviso. In setting out the content of the proposal for merger, Burns' 41-914(b), supra, reads, in part, as follows:

"* * * Such proposal shall state that said library is willing to combine with such township, townships, or portion thereof, to form a single town-township library district * * *" (Our emphasis)

With respect both to the number of signatures on the petition for acceptance of the resident voters and on the remonstrance, the Legislature again referred to a "portion of the township." Thus, the language of the section anticipates that where an incorporated town is located within a township, such incorporated town is treated separately from the remainder of the township.

Therefore, in answer to question No. 3, it is my opinion that where an incorporated town is located in the township, the library board of the town must submit a proposal for merger to both the appropriate officers of the township and the board of town trustees of the town if it is intended that the proposal for merger include such incorporated town; and, if the town trustees refuse to agree to such proposal, or if a
remonstrance is sustained, then such town is excepted from inclusion in the town-township library district. Furthermore, if the proposal for merger is not submitted to the board of town trustees of such incorporated town, then it is automatically excluded from such merger.

OFFICIAL OPINION NO. 69

December 6, 1962

Mr. B. B. McDonald
State Examiner
State Board of Accounts
912 State Office Building
Indianapolis 4, Indiana

Dear Mr. McDonald:

This is in answer to your letter of November 21, 1962, wherein you request an Official Opinion from me.

Your specific questions are stated as follows:

"1. Does Chapter 237 of the Acts of 1961 limit the vacation time of hourly paid county employees to two weeks?

"2. Does Chapter 237 of the Acts of 1961 limit the vacation time of salaried county employees to two weeks?"

Your questions require a consideration of the Acts of 1961, Ch. 237, Secs. 1 and 2 as found in Burns' (1962 Supp.), Sections 49-4101 and 49-4102 respectively. These sections read as follows:

"SECTION 1. On and after January 1, employees of the State of Indiana who are compensated for their services on an hourly basis may be granted a vacation with pay, as hereinafter provided, by executive order of the governor, and employees of the political subdivisions of the state may be granted a vacation with pay, as hereinafter provided, by ordinance of the common council of a city, board of county commissioners of a county, town board of a town, or advisory board of a township."