Mr. Edwin Steers, Sr., Member
State Election Board
108 E. Washington Street
Indianapolis, Indiana

Dear Mr. Steers:

This is an answer to your request of January 29, 1962, for an Official Opinion based on a letter from Mr. Stanley O. Nelson, Clerk of the Pike Circuit Court, dated January 25, 1962.

In a call to Mr. Nelson, I was advised that his specific question, to you, could be stated as follows:

Is Washington Township of Pike County eligible to have a separate township assessor in view of the fact that Washington Township and Petersburg Corporation have a combined population of 4,490, together with a combined net evaluation of $4,771,070 and a combined gross evaluation of $5,145,465?

I am cognizant that some uncertainty has arisen relative to the proper answer for a question such as you have submitted. My research indicates that this uncertainty has been caused through doubt as to the proper interpretation that should be placed on the Acts of 1959, Ch. 220, Secs. 1 and 5, as found in Burns' (1961 Repl.), Sections 64-1321 and 64-1325, respectively, which read as follows:

64-1321. "Townships shall be classified and the township assessors' salaries shall be based upon the population as shown by the last preceding United States census, or the gross assessed valuation, as shown by the auditor's abstract of the preceding year, whichever shall provide for the larger salary bracket and shall be as follows." (Our emphasis)

64-1325. "In townships having a population of not less than five thousand [5,000] and not more than ten thousand [10,000] according to the last preceding United States census, or a valuation of taxable property as shown by the assessment for the last preceding
year of not less than five million dollars [$5,000,000] and not more than ten million dollars [$10,000,000], the salary of the township assessor shall be not less than one thousand five hundred dollars [$1,500], and not more than one thousand eight hundred dollars [$1,800].” (Our emphasis)

The title to the Acts of 1959, Ch. 220, supra, reads:

“AN ACT fixing the salaries of township assessors, providing the manner of payment thereof and repealing all laws in conflict therewith.”

An examination of the act indicates it is what the title proclaims it to be, namely, a salary act. The classifications contained therein are clearly for the purpose of fixing salaries of township assessors based on the population or gross assessed valuation. To say that either of these sections provides an alternative method for the authorization of a township assessor would be to render meaningless the provisions of the Acts of 1933, Ch. 77, Sec. 1, as amended and found in Burns’ (1951 Repl.), Section 64-1031 and the Acts of 1951, Ch. 302, Sec. 1, as found in Burns’ (1951 Repl.), Section 64-1031a. These sections, although now repealed, provided as follows:

64-1031. “All of the rights, powers and duties conferred by law on the township assessors of the several townships of this state are hereby continued in full force and effect and, in townships having a population of five thousand [5,000] or less, according to the last preceding United States census, such rights, powers and duties are hereby transferred to and conferred upon the respective township trustees of such townships, and shall be held, exercised and possessed by the several trustees of such townships, and the office of township assessor in each of such townships is hereby abolished. The trustees of the several townships of this state having a population of five thousand [5,000] or less, according to the last preceding United States census, shall perform all of the duties of the township assessors of such townships. Such trustees, in performing their duties as township assessor, are hereby authorized to employ such assistants as may be necessary
to perform their respective duties, in the same manner and subject to the same restrictions as are provided by law for other township assessors.”

64-1031a. “In each township in which there is no office of township assessor and which township has according to the last preceding United States census a population of more than five thousand [5,000] inhabitants, the office of township assessor is hereby created. Township assessors of such townships shall be elected and vacancies in said office shall be filled by appointment by the county assessor with the approval of the state board of tax commissioners. All the rights, powers and duties conferred by law on township trustees of the several townships of the state in order for them to act as township assessors are continued in full force and effect and are hereby transferred to and conferred upon the respective township assessors provided for by this act: Provided, That in any township which according to said census has a population of five thousand [5,000] or less inhabitants and in which such duties are performed by a township assessor said office is hereby abolished and the aforementioned rights, powers and duties are hereby conferred upon the township trustee of any such township.”

Both of these acts remained in full force and effect until the passage of the Acts of 1961, Ch. 319, when each of the former sections was specifically repealed but the substance thereof incorporated into Sections 1601 and 1606 thereof, as found in Burns’ (1961 Repl.), Sections 64-1301 and 64-1306.

The key word in the uncertainty concerning and the misinterpretation sometimes given to the provisions of Burns’ 64-1321 and 64-1325, supra, apparently has been the conjunction “or” which I have emphasized in each of the above sections. It is true, alternative qualifying factors are provided in Sections 64-1321 and 64-1325, but these are solely for use in determining the authorized salary scale for township assessors and not for determining whether such township is authorized a township assessor in lieu of the township trustee ex officio performing duties as an assessor.
In my 1961 O. A. G., pages 360, 363, No. 58, I cited the following statement taken from the case of Poyser v. Stangland (1952), 230 Ind. 685, 689, 106 N. E. (2d) 390, wherein the court said:

""The general rule is that nothing may be read into a statute which is not within the manifest intention of the legislature as gathered from the act itself, and that a statute should not be construed any more broadly or given any greater effect than its terms require. Where the language of the statute is clear in limiting its application to a particular class of cases and leaves no room for doubt as to the intention of the legislature, there is no authority to transcend or add to the statute which may not be enlarged, stretched, or expanded, or extended to cognate or related cases not falling within its provisions." 50 Am. Jur. Statutes, § 229, pp. 214, 215, 216. See also 59 C. J. Statutes, § 569, pp. 953 to 958. Bettenbrock v. Miller (1916), 185 Ind. 600, 606, 112 N. E. 771."

It will be noted, in the instant case, that the township has a population of less than 5,000, namely 4,490. The Acts of 1961, Ch. 319, Secs. 1601 and 1606 as found in Burns' (1961 Repl.), Sections 64-1301 and 64-1306 respectively is controlling in the consideration of your question. These sections of the statute read as follows:

64-1301. "There shall be elected at the general election on the first Tuesday after the first Monday in November, 1962, and every four [4] years thereafter, in each township in this state having a population of more than five thousand [5,000] according to the last preceding United States census, an assessor for such township. Such assessor shall hold the office for the term of four [4] years from the first day of January following and until a successor is elected and qualified, and shall receive such compensation as provided by law." (Our emphasis)

64-1306. "The trustees of the several townships of this state having a population of five thousand [5,000] or less, according to the last preceding United States
In my 1961 O. A. G., pages 225, 230, No. 38, I quoted from the case of Board of Commissioners of County of Marion v. Board of School Commissioners of City of Indianapolis (1960), — Ind. —, 166 N. E. (2d) 880, 884, which reads, in part, as follows:

"There are many principles of statutory interpretation stated in the opinions of our courts. The one principle which we believe should be considered before any others may be resorted to, however, is that a statute which is clear and unambiguous must be given its apparent or obvious meaning. * * *

The language employed by the Legislature in Burns’ 64-1301 and 64-1306, supra, is clear and unambiguous. It is emphasized that population of the township is the sole determining factor as to whether a township is entitled to a separate township assessor or whether the township trustee must act ex officio in that capacity. The minimum population is required to be “more than 5,000.” Washington Township, Pike County is stated to have a population of 4,490.

Therefore, in my opinion, by reason of the provisions of Burns’ 64-1301 and 64-1306, supra, it is mandatory that a township have more than 5,000 population, as shown by the last preceding United States census, in order that a township be authorized to appoint or elect a township assessor, and this
OFFICIAL OPINION NO. 14
February 23, 1962

Hon. Joe Cloud
State Representative
228 South 23rd Street
Richmond, Indiana

Dear Representative Cloud:

This is an answer to your recent request for an Official Opinion. In your initial request you stated, in part, as follows:

"Is the employment of an unemancipated minor by a municipal corporation, or by any of its departments or utilities, whenever the parent of said minor is either an elected, or appointed official or employee of said City, contrary to law, and specifically, is said employment in violation of Chapter 29, Section 46 of the Acts of 1905, Burns' Indiana Statutes, Annotated, Sec. 48-1247?"

Thereafter, in response to my request as to the exact factual circumstances concerning the positions of employment involved, you forwarded the following supplemental information:

"Pursuant to your request and suggestion, I am herein submitting two specific examples which prompted the inquiry contained in my said letter of November 20, 1961:

"Case I—The Parent is an appointed employee of the City of Richmond, Indiana, to-wit, the Secretary to the Mayor of the City of Richmond. Her salary is established by the Common Council of the City of Richmond. The unemancipated minor son of said employee is a student and has been employed as a part time employee..."