2606(i) which organizations "shall be excepted from taxation under the provisions of this act: * * *." The requirement for such affidavit would also apply to those situations of a minimal consideration equal to or less than the annual $1,000.00 deduction to which each taxpayer is entitled in computing his gross income tax liability; examples of such situations are quit-claim deeds or easements as to which the monetary consideration often is only a technical necessity and, therefore, may amount to token sums such as one dollar. There may be other situations, less frequently encountered, requiring the affidavit of no tax liability, as for instance in the case of reciprocal exchanges of real estate by and between the owners thereof which transfers do not generate gross income tax liability to the extent of the value of the property of which title is so surrendered.

The above illustrations constitute some of the situations in which the no-tax affidavit requirement would apply and indicate the reason for the necessity of such a requirement by the Acts of 1961, Ch. 293, *supra.* However, because that act does not manifestly apply to either sovereign, the requirement of a no-tax affidavit is not applicable to the State of Indiana or the United States, or an instrumentality of either, irrespective of whether such sovereign is the grantee or grantor; this is true even though the transaction is one creating a liability for gross income tax upon the proceeds derived from such transfer.

OFFICIAL OPINION NO. 29

July 7, 1961

Honorable Ralph Rader
State Representative
Box 246
Akron, Indiana

Dear Representative Rader:

Your letter of June 16, 1961 has been received and reads as follows:

> "I am desirous of an official opinion relative to when and how signatures may be removed from a school

petition which has been properly signed as set forth in Ch. 202 of the Acts of 1959. This was amended by House Enrolled Act No. 271 being Ch. 231 of the Acts of 1961 which amends Sec. 5 (3), of Ch. 202 of the Acts of 1959. It provides 60% or more of the registered voters requesting release from their County Committee to that of an adjoining county.

"The above has been requested by the Fulton County Committee."

Acts 1961, Ch. 231, amends Acts 1959, Ch. 202, Sec. 5 (3), as found in Burns' (1961 Supp.), Section 28-6106, as follows:

"(3) Any plan for the reorganization of school corporations involving territory lying in two (2) or more counties shall be prepared by joint action of the respective county committees, which plan, for the purpose of submission to the State Commission, as hereinafter provided, shall be included in the comprehensive plan of the county which has the largest number of pupils residing in the proposed united school corporation: Provided, however, That in instances when school corporations contain territory in two or more counties, in the absence of written agreement to the contrary, approved by the State Commission, jurisdiction shall vest in the County Committee of the county containing that portion of said corporation having the most pupils: Provided further, That before a plan is voted in and when sixty per cent (60%) or more of the registered voters of any township, city or town adjacent to another county, petition their county committee requesting that all or part of their particular township, city or town be included in the reorganization plan of an adjacent county, the county committee so petitioned shall release that part of the township, city or town so designated to the county committee named in the petition, which county committee shall in turn include said released territory in the reorganization plan for their particular county. Such petition and request must be filed with the County Committee prior to the time a final plan is submitted to the State Commission or be-

fore a second or subsequent plan is submitted following rejection of the initial plan.

"Within five (5) days after the receipt of such petition, the county committee shall file such petition with the clerk of the circuit court. After receipt of the petition, the clerk shall make certification under his hand and seal of his office as to (i) whether or not each signer thereon is a registered voter residing within the boundaries of the particular township, city or town, as disclosed by the voter registration records in the office of the clerk or the board of registration of the county, or wherever such registration records may be kept, (ii) the number of such registered voters signing the petition, and (iii) the number of registered voters residing within the boundaries of the particular township, city or town, as disclosed in the records mentioned in subdivision (i) hereof.

"Such certification shall be made by the clerk within thirty (30) days after the filing of the petition, excluding from the calculation of such period any time during which the registration records are unavailable to the clerk, or within such additional time as is reasonably necessary to permit the clerk to make such certification. The clerk shall establish a record of his certification in his office and shall return the petition together with his certification to the county committee. If the certification or certifications received from the clerk disclose that sixty per cent (60%) or more of the registered voters residing within the boundaries of the township, city or town, have signed the petition, the county committee shall so inform the neighboring county committee involved."

The primary object of statutory construction is to ascertain and effectuate the intent of the Legislature as shown by the whole act, the law existing before its passage, the changes made and the apparent motive for making them.

State *ex rel.* Rogers v. Davis (1952), 230 Ind. 479, 482, 104 N. E. (2d) 382;

1955 O. A. G., pages 81, 90, No. 23.

In ascertaining the legislative intent as to a statute, the courts may take into consideration other acts *in pari materia,* whether passed before or after the act in question.

> Sherfey v. City of Brazil (1937), 213 Ind. 493, 497, 13 N. E. (2d) 568.

It is apparent that the petition referred to in the Acts of 1961, Ch. 231, *supra,* must be filed with the County Committee within the time prescribed. Therefore, the determining factor is whether or not 60 per cent of the registered voters had signed the petition at the time it was presented and filed with the County Committee.

Chapter 302 of the Acts of 1961 amends Acts 1959, Ch. 202, Sec. 7 (1), as found in Burns' (1961 Supp.), Section 28-6117, and, among other things, provides a procedure whereby 55 per cent or more of the registered voters signing a petition approving a reorganization plan, to be filed with the County Committee within a time specified, may obviate the necessity of an election being held thereon. This section of the statute, as amended and as it existed prior to amendment, provided: "Each signer on the petition shall be privileged prior to, but shall not be entitled after such filing with the county committee, to withdraw his name from the petition."

Under the foregoing authorities, when these two amendments of the same statute are considered *in pari materia,* and the entire statute is considered, the legislative intent is clear that the rights of the parties are fixed and determined as of the date such petitions are filed with the County Committee. The one section specifically provides a name may not be removed from the petition after such filing with the County Committee and I am of the opinion a name may not be withdrawn from such petition after the time it is filed with the County Committee under the section of the statute here in question. After such time, only administrative acts are required. The County Committee must refer the petition to the county clerk for his certification and return the petition and his certification to the County Committee. If such certification shows the required per cent of registered voters have signed the petition the County Committee must so inform the neighboring County Committee involved and release the territory in question to such neighboring County Committee for its action.

I am, therefore, of the opinion a person signing the petition referred to in your question could not withdraw his name therefrom after the time the petition is filed by the petitioners with the County Committee of their county, for the reason that the said committee's jurisdiction attached at the time of such filing.

How a person may withdraw his name from a petition prior to the time of such filing does not seem to have been specifically considered in this state. However, persons circulating a petition are generally considered the agents of the persons signing the same and the same law of agency would, therefore, be applicable. It would, therefore, seem that a person signing such petition and desiring his name to be withdrawn would only be required to notify the person in custody of the petition of his demand. Written notice of such request would be better evidence, but in my opinion would not be necessary. Whether a proper demand for withdrawal of a signature was made before the petition was filed with the County Committee would be a question of fact which only a court would have the right to judicially determine in an appropriate action thereon.

OFFICIAL OPINION NO. 30

July 11, 1961

Honorable Joseph D. Cloud
State Representative
Wayne and Union Counties
228 South 23rd Street
Richmond, Indiana

Dear Representative Cloud:

This is in answer to your request for an Official Opinion concerning the eligibility of a township trustee to hold office as a member of a county election board. In specific language your question is stated as follows:

> "Is a township trustee qualified and eligible to hold office as a member of a county election board?"

Your question is particularly directed toward the possible violation of the Indiana Constitution, Art. 2, Sec. 9, which provides as follows: