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as prosecutor of the, now reduced, 70th Judicial Circuit consisting only of Perry County.

This leaves a vacancy in the office of the prosecuting attorney of the 84th Judicial Circuit and the Governor should appoint a prosecutor to fill this vacancy; Constitution of Indiana, Article V, Section 18.

It also follows that if Section 5 of the above named Act is void said Act contains no provisions for the salaries of the prosecutors of the 70th and 84th Judicial Circuits. Therefore the salary of each prosecutor would be fixed, after May 1, 1953, on the basis of the population of the circuit under House Enrolled Act 263 which is Chapter 270 of the Acts of 1953.

OFFICIAL OPINION NO. 36

May 14, 1953.

Lee Guyant, Secretary,
Indiana State Board of Registration
for Architects,
4th floor, State House,
Indianapolis, Indiana.

Dear Madam:

I have your request for an official opinion to which you attach correspondence raising the question of whether or not a person who passes the examination to be licensed as an architect may delay receiving that license for an extended period of time.

Chapter 62 of the Acts of 1929 provides for licensing of architects and is found in Burns' Indiana Statutes Annotated (1951 Repl.) Section 63-101 *et seq.* Chapter 6 of that act concerns applications to take the architectural examination and reads as follows:

“Any person desiring to engage or continue in the practice of architecture, in this state, shall apply to the board for a certificate of registration authorizing such person so to do, and shall submit evidence to the board that he is qualified to engage or continue in the practice of architecture, in compliance with the requirements of

this act. (Secs. 63-101—63-128). The application for a certificate of registration shall be made on a form which shall be prescribed and furnished by the board, shall be verified and shall be accompanied by the prescribed fee.”

Section 10 of that act concerns issuance of certificates of registration and reads as follows:

“Whenever the provisions of this act (Secs. 63-101—63-128) have been complied with by an applicant, the board shall issue a certificate of registration to the applicant as a registered architect, which certificate shall have the effect of a license to the person to whom it is issued to practice architecture in this state, subject to the provisions of this act.”

Section 16 of that act concerns various fees to be charged and reads as follows:

“The fee to be paid by an applicant for an examination to determine his fitness to receive a certificate of registration as a registered architect, shall be twenty-five dollars (\$25.00).

“The fee to be paid by an applicant for a certificate of registration as a registered architect shall be twenty-five dollars (\$25.00).

“The fee to be paid for the restoration of an expired certificate of registration as a registered architect shall be one dollar (\$1.00) after the certificate has been in default for one (1) month, and an additional one dollar (\$1.00) for each succeeding month or fraction thereof of such default but not exceeding a maximum restoration fee of ten dollars (\$10.00). Such restoration fee shall be in addition to all unpaid renewal fees.

“The fee to be paid upon renewal of a certificate of registration shall be fifteen dollars (\$15.00).

“The fee to be paid by an applicant for a certificate of registration who is an architect registered or licensed under the laws of another state or territory of the United States, or of a foreign country or province, shall be twenty-five dollars (\$25.00).”

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It is to be noted that Section 10 states that no certificate of registration shall be issued until all the other provisions of the act have been complied with. Passage of the examination is only one of those conditions. Payment of a fee for a certificate of registration is another of the requirements for the issuance of a registration certificate. There is no mention in the act of any particular time which either must or may elapse between passage of the examination and receipt of the certificate of registration, nor is the board given any specific discretion as to issuance of a license once the examination has been passed. It should be noted further that Section 23 of the act provides specifically that the act shall be liberally construed to safeguard life, health and property.

The case of *Custer v. Holler* (1902), 160 Ind. 505, 67 N. E. 228 states as follows:

“* * * When time is not of the essence or substance of the thing to be done,—when it may be as well done at some other time, and more convenient and beneficial to the parties interested,—there can be no sound reason, in most instances, why the law should prevent the highest interests of the parties concerned from being subserved by a reasonable departure from the advice and direction of the statute as to the time for the performance of some official act. The courts generally take this view. Beyond question it is well established in this State as a rule of construction that when a statute fixed the time for the performance of an official act that affects the rights and duties of others, without words of limitation upon the right or power of the officer to perform the act at some other time, the time so fixed will be regarded as directory, and not as essential to the validity of the proceeding. * * *”

Further the Appellate Court of Indiana in the case of *Hamilton v. City of Indianapolis* (1945), 116 Ind. App. 342, 64 N. E. (2d) 303 cites with approval a quotation from Sedgwick on Statutory and Constitutional Law the following:

“* * * ‘When statutes direct certain proceedings to be done in a certain way or at a certain time, and a strict compliance with these provisions of time and

form does not appear essential to the judicial mind, the proceedings are held valid, though the command of the statute is disregarded or disobeyed. In these cases, by a somewhat singular use of language, the statute is said to be directory.' * * *"

It is therefore my opinion that a reasonable delay between the time an examination is given and the time the license is issued is permissible. It is possible, however, that an unreasonable delay might raise a question as to the qualifications of an applicant. A reasonable delay, however, is permissible.

OFFICIAL OPINION NO. 37

May 18, 1953.

L. E. Burney, M. D.,
State Health Commissioner,
Indiana State Board of Health,
1330 West Michigan Street,
Indianapolis, Indiana.

Dear Sir:

I have your request for an official opinion which reads as follows:

"We request your official opinion as to whether the definition of 'Tourist Camp,' contained in Section 1700 of Chapter 157, Acts of 1949, includes 'motels,' thus requiring them to comply with the provisions of the act."

The statutory definition of tourist camp appears in Section 1700, Chapter 157 of the Acts of 1949 which is found in Burns' Indiana Statutes Annotated (1949 Repl.), Section 35-2801 and reads as follows:

"TOURIST CAMP DEFINED.—As used in this division, unless the content otherwise requires: 'Tourist Camp' means any plot of land used or maintained to be used by transient guests for a camping place, or where any part of such plot of land is so used. The term 'tourist camp' shall be defined to include camping