

upon the first day of March of any year, deducted from the assessed valuation of his or her said mortgaged premises for that year, and the amount of such valuation remaining after such deduction shall have been made shall form the basis for assessment and taxation for said real estate for said year: Provided, That no deduction shall be allowed greater than one-half of such assessed valuation of said real estate."

This section of the statute in providing deductions, refers to the "sum secured by mortgage," and the "amount of such mortgage indebtedness," which without any question has reference to one mortgage debt, that is, to one mortgage. Since two separate farms, owned separately by two persons, mortgaged by one instrument establishes but one mortgage indebtedness, it seems clear in view of the wording of the statute that there could be but one deduction.

Even if the statute were not clear, and is possibly open to a wider interpretation, it is to be said that the settled law in this and other states is that claims for exemption from taxation or of deductions are to be strictly construed against the claimants and such claims are to be restricted rather than enlarged.

Several opinions from former Attorneys General are cited in the letter which accompanies your inquiry. These opinions appear to be correct statements of the law but are hardly applicable to the particular question involved in the case presented.

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**STATE HIGHWAY COMMISSION: School grounds for highways.**

March 28, 1941.

Mr. James D. Adams, Chairman,  
State Highway Commission of Indiana,  
State House Annex,  
Indianapolis, Indiana.

Dear Sir:

This is in response to your request of March 26, 1941, which reads as follows:

"The Right of Way Department of the State Highway Commission writes me that it has before it a grant se-

cured from a township trustee signed by himself and his advisory board for right of way alongside a school property located in Decatur County. The amount of the grant is \$650.00.

“The question is: Can a township trustee and his advisory board convey rights and interest in public school property to the State Highway Commission? If so, by what method?”

You also ask whether the Highway Commission has any authority to pay for rights of way needed from school property in the improvement of a state highway.

The question raised by your inquiry has to do with the authority of a township trustee. A township trustee has no authority in the matter of selling or conveying school real estate, except where some positive statute gives him that power. The same rule applies to an advisory board.

Under certain conditions where a school has been abandoned, or, where a school has been removed to another location, and the school real estate is not needed for school purposes, or, where the school real estate was acquired for “experimental purposes” and is no longer needed for that purpose and is unnecessary for school purposes, the township trustee or school authorities may sell and convey the ground—by following certain statutory requirements.

Burns Ind. Stat. Anno. 28-3316, and following sections.

I do not understand that the strip of land covered by the deed referred to in your letter comes within any of these statutory provisions. I understand that the land which the deed purports to convey is a part of school grounds devoted to school purposes. The trustee, therefore, had no authority to deed away any of the school real estate.

In my opinion, there is no way by which a township trustee, either with or without the advisory board, can convey property, devoted to school purposes, to the Highway Commission. It follows that the State Highway Commission has no right to pay money for school land so conveyed to it, because the Commission would not by that conveyance secure a good title.

I believe that the State Highway Commission under its power of eminent domain may acquire for necessary Highway

purposes a strip of real estate devoted to school purposes, where it is found that the use for highway purposes is important and the injury to the school is not serious. That is, there would be a question of fact, in each condemnation case of the necessities for the two uses.

East Hampton v. County Commissioners, 28 N.  
E. 298 (Mass.).

Rominger v. Simmons, 88 Ind. 453.

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**DEPARTMENT OF INSURANCE:** Has jurisdiction in rate making, under Workmen's Compensation Rating Bureau law, and stock company is authorized to write participating policy.

March 31, 1941.

Honorable Frank J. Viehmann,  
Insurance Commissioner,  
The Department of Insurance,  
State House,  
Indianapolis, Indiana.

Dear Sir:

I have before me your letter of January 14, 1941, which in part reads as follows:

"In connection with this proposed rider to be attached to certain specific policies, we would desire an opinion as to whether or not jurisdiction over the contents of a compensation policy or provisions thereof falls within the provisions of the Indiana Insurance Law and, therefore, under the jurisdiction of this Department, or is such authority vested only in the Industrial Board.

"Second, if the jurisdiction over the contents of such policy and rider attached thereto falls under the provisions of the Indiana Insurance Law, as administered by this Department, does the rider by its specific provisions violate or contravene the statute relative to discrimination in rates which may be charged by companies licensed by this Department.