Your attention is directed to the following language contained in section 13 (a) of chapter 117 of the Acts of 1937:

"* * * And thereupon the amount of such warrant so docketed shall become a lien upon the title to, and interest in, real and personal property, including choses in action except negotiable instruments not past due, of the person against whom it is issued, in the same manner as a judgment duly enrolled in the office of such clerk. The sheriff thereupon shall levy upon property of the taxpayer, including negotiable instruments, in all respects with like effect, and in the manner prescribed by law in respect to executions issued against property upon judgments or attachment proceedings of a court of record. * * *"

In view of the language quoted immediately above, which provides that action taken by officers with respect to Gross Income Tax warrants shall be in all respects with like effect and in the manner prescribed by law with respect to executions issued upon judgments or attachments. I am of the opinion that it will be necessary for the sheriff, before making a sale, to have the usual statutory appraisement made and to refrain from continuing with the sale if the property should fail to bring two-thirds of the appraised value. (2 Burns Ind. Stat. Annotated, 2-3701.)

FIRE MARSHAL, STATE: Duties; not required to determine use to which school buildings put in issuing permits for public entertainments.

June 9, 1939.

Honorable Clem Smith,
State Fire Marshal,
State House,
Indianapolis, Indiana.

Dear Sir:

Your letter to me of June 2 reads as follows:

"After having received your official opinion of May 29, concerning the construction of the so-called theatre law, i. e., chapter 83, Acts of the General Assembly of
1937, we submitted a copy of this opinion to the Associated Theatre Owners of Indiana.

"We have this day been informed by the Associated Theatre Owners of Indiana that it is their opinion, in view of sections 28-3307 and 28-3308 of Burns, etc., 1933, that we should refuse to issue permits approving the use of schoolhouses for purposes of public entertainment. Will you kindly give an official opinion informing me as to what bearing, if any, these sections of the statutes have on our issuing the aforementioned permits?"

The two sections to which you refer, sections 28-3307 and 28-3308, Burns Indiana Statutes 1933, are parts of two separate laws, the former law having been enacted in the year 1859 and the latter in 1913.

The law of 1859 provides in substance for the use of school houses for religious or political purposes upon presenting application to the trustee. The law has application to district or township schools only.

According to the law of 1913 the public is permitted the "free and gratuitous" use, light, heat, and janitor service also to be provided, of school houses and other public buildings and grounds upon application to school authorities by not less than one-half of the voters residing within two miles of such buildings or grounds.

In replying to your inquiry it is not necessary to examine closely into these two laws to reconcile their provisions with the provisions of other of our Indiana school laws which grant powers to school authorities relative to the general custody and control of school properties.

This is not necessary because I believe it is no part of your duties as fire marshal to inquire into any such subject matter when making an inspection of school buildings to determine whether a Class "C" permit should be granted for entertainment purposes under section 4 (c), chapter 83, Acts of 1937.

I call your attention to the following phraseology of subsection (d) of such section 4, chapter 83:

"The several halls, gymnasiums or other places of assembly, amusement or entertainment designated in subsection (c) of this section shall, for the purposes of
this Act, be classified as Class C places of amusement. All Class C places of amusement shall be under the direct supervision of the state fire marshal and shall be inspected at such times as the state fire marshal shall deem necessary to insure adequate safety to the public.”

To insure “adequate safety to the public” is the primary purpose of your inspection.

And I call your further attention to the last sentence of section 1 of chapter 83, which reads:

“All inspections made by the state fire marshal by virtue of the provisions of this Act shall be made in strict compliance with the provisions of this Act and all of such buildings, halls, theatres and other places shall conform with the rules and regulations of the state fire marshal.”

As appears from the wording of the foregoing quotation, the fact that your inspections are to be made in a strict compliance with the provisions of the Act and that the buildings referred to shall conform with the rules and regulations of the state fire marshal has the effect of emphasizing the “public safety” feature of your inspection.

Your duties as fire marshal, in my opinion, have to do with fire risks and hazards and the safety of the public in the use of school buildings and not with any such collateral question as whether school authorities have the right under the law to use a building for one particular purpose or another not involving or having any relation to public safety. It is not incumbent upon you, nor is it the province or function of your office, to examine into and attempt to construe and apply the school laws of the state to determine a question which is wholly unrelated to the question of public safety with which you, as fire marshal, are concerned.

For the reasons stated, it is my opinion that sections 28-3307 and 28-3308 above referred to can have no bearing upon your duties in passing upon the issuance of Class “C” permits under section 4 (c) and (d) of chapter 83, Acts of 1937.