"To regard as associated—followed by 'with'; as, to connect prosperity with industry."

I believe it is in this sense that the legislature used the words; that the legislative intention was not to require that the school and hospital be physically connected, but that they be associated in interest and purpose.

Your attention is called to the fact that the student will eventually be graduated from St. Mary's College School of Nursing which is situated in this state.

The answer to your question is, therefore, in the negative.

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**TAX COMMISSIONERS, STATE BOARD OF:** Delinquent tax sale, whether title encumbered by taxes accruing during fifteen months' period prior to sale; construction of Acts of 1932, chapter 59, section 222.

July 15, 1939.

Honorable C. R. Benjamin, Commissioner,

State Board of Tax Commissioners,

Indianapolis, Indiana.

Dear Mr. Benjamin:

I have before me your request for an official opinion in answer to the following question:

"In the case of real estate advertised and sold for taxes, as provided in section 222 of the tax law, does the last fifteen months' delinquency referred to in Acts of 1932, chapter 65, section 2, attach; or does 'free and clear of tax incumbrance' mean that the last fifteen months' delinquency is included in the sale?"

Section 2 of chapter 65 of the Acts of 1932 provides as follows:

"No real estate shall be sold for the purpose of collecting any delinquent installment or installments of tax until fifteen months shall have elapsed after any such installment shall have become delinquent, and such real estate shall be sold for the purpose of collecting only such taxes as shall be delinquent."

Section 222 of the tax law referred to by you is section 222 of chapter 59 of the Acts of 1919, the same being section 64-1516 of Burns Indiana Statutes Annotated (1933). This latter section reads as follows:

"Any real estate within the State of Indiana against which delinquent taxes have accumulated which aggregate an amount equal to or greater than the assessed valuation of said real estate, and which has been offered for sale at not less than two (2) public tax sales, and has, at each sale, failed to bring an amount equal to the accrued taxes and penalties standing against said real estate, shall be sold by the county treasurer at public sale to the highest bidder for cash, after giving notice of such sale as in case of sale of land for delinquent taxes, and the authorities now designated by law and authorized to execute deeds shall be authorized to execute to said purchaser a deed conveying the title to said encumbered property to said purchaser for value free and clear of tax encumbrances."

Under date of December 29, 1933, my predecessor rendered an official opinion to the state examiner interpreting section 2 of section 65 of the Acts of 1932, above referred to, in which opinion he said:

"The statute provides that 'no real estate shall be sold for the purpose of collecting any delinquent installment or installments of tax until fifteen months shall have elapsed after any such installment shall have become delinquent.' (Our italics.) The above language is clear and limits the sale for the purpose of collecting delinquent taxes to taxes which have been delinquent for at least fifteen months."


It is my understanding that the above rule has been followed. The Act of 1932, above referred to, is a special Act and modifies other general tax laws then in force to the extent necessary to harmonize the several provisions. Thus, following the reasoning of the above opinion, in offering land for sale to pay taxes under section 64-1516, supra, the limitation set out in section 2 of chapter 65 should be observed. In other words,
the public tax sales referred to in said section, after the effective date of the 1932 Act, would be public tax sales in which the delinquencies for the last previous fifteen months would not be included. However, the taxes which had been delinquent for less than fifteen months would nevertheless be an encumbrance upon the property even though the coercive power of sale could not be resorted to for the purpose of collection.

With these preliminary observations in mind, I desire to examine section 222, supra. It will be noted that certain things must be present in order to authorize a sale under that section. First, delinquent taxes must have accumulated against the property to be sold aggregating an amount equal to or greater than the assessed valuation of the real estate. Second, it must have been offered for sale at not less than two public sales and at each sale have failed to bring an amount equal to the amount of the accrued taxes and penalties standing against said real estate.

The question at once arises with reference to the last described condition as to just what is meant by the language "failed to bring an amount equal to the accrued taxes and penalties standing against said real estate" in view of the fact that neither of such offers included the last fifteen months' delinquency. Undoubtedly, if at either of the two sales prior to the sale under section 64-1516 a sufficient bid was received—to pay the taxes, costs and penalties for which the sale was made, the bidder, upon payment of his bid, would be entitled to a certificate, which, unless the land was redeemed, in time would entitle him to a deed. But such a sale would not, in my opinion, operate to release the lien for the fifteen months' delinquency not included in the sale or of other taxes which were a lien, although not delinquent. As matters stood prior to the enactment of the 1932 legislation, the language of section 64-1516 authorizing a deed for the real estate to the tax sale purchaser "free and clear of tax encumbrances" is entirely understandable because such sale included all taxes which were a lien at the time of the sale. But, in my opinion, that would not be true of a sale now made, in view of the 1932 legislation. In other words, I think the 1932 legislation so far modified section 64-1516 as that the language "failed to bring an amount equal to the accrued taxes and penalties standing against said real estate," as therein used, must be construed as meaning the accrued taxes and penalties for which under the law the sale could be made.
The purpose of the provision of section 64-1516 authorizing a sale to the highest bidder and authorizing the execution of a deed to the purchaser "free and clear of tax encumbrances" is clear. It was to permit the full cancellation of the tax burden for which the property was being sold notwithstanding the amount was less than the total amount of the taxes included in the sale. The language is appropriate to that sort of a situation. But assuming that the taxes for which the sale is made does not include the taxes accruing during the fifteen months immediately preceding the sale nor current taxes, which I think is correct, it would seem that the language "free and clear of tax encumbrances" ought to be likewise modified so as to mean "free and clear of tax encumbrances" for the collection of which the sale is made.

To summarize, if the taxes accruing during the fifteen months' period immediately prior to the sale as well as the current taxes are not included in the sale, which seems to be the effect of the 1932 legislation, in my opinion, the deed authorized by section 64-1516, supra, is free and clear of only such tax encumbrances as are included in the sale as above defined. Your question is answered accordingly.

FIRE MARSHAL, STATE: Permits for fireworks displays, authority to issue.

July 18, 1939.

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

Dear Mr. Smith:

Your letter of July 17, 1939, relative to chapter 154 of the Acts of 1939, known as the Fire Works Act, received.

You ask, "Who shall have the authority to issue permits referred to in this Act?" Section 2 of the Act provides:

"Provided, That the State Fire Marshal shall have power to adopt reasonable rules and regulations for the granting of permits for supervised public displays of fireworks by municipalities, fair associations, amusement parks, and other organizations or groups of in-