

OPINION 37

I am of the further opinion that the proviso clause of Burns' Section 39-426, *supra*, is limited to that section and has reference to an exclusion of that class of insurance business of a general *fraternal nature* from the inclusion in the first part of Burns' Section 39-426, *supra*. In other words, fraternal type insurance companies were not intended to be included in that type of insurance business deemed to be on the assessment plan by the first part of Burns' Section 39-426, *supra*, inasmuch as they were specifically covered by separate statutes, such as the Acts of 1877, Ch. 4, Sec. 1 *et seq.*, and that the proviso clause was inserted merely to prevent the inclusion of fraternal benefit associations organized under the *lodge system* from being deemed an assessment plan company under this act.

It is, therefore, my opinion that the Laymen of the Church of God can reincorporate under the provisions of the Acts of 1897, Ch. 195, Sec. 5, in face of the provisions of the Acts of 1935, Ch. 162, Sec. 272, Burns' Section 39-5025, *supra*, by meeting the requirements of the Acts of 1897, Ch. 195, Sec. 5, Burns' Section 39-425, *supra*.

OFFICIAL OPINION NO. 37

August 14, 1956

Hon. Wilbur Young
State Superintendent of Public Instruction
227 State House
Indianapolis, Indiana

Dear Mr. Young:

I have your letter of July 24, 1956, in which you request an Official Opinion as follows:

"Our office is the Distributing Agency for federal government donated foods under the U. S. D. A. Donated Commodity Program. We are authorized to distribute commodities to institutions defined as charitable, nonpenal, nonprofit and tax-exempt.

"At this time we have an application for participation from the Lake County Detention Home. We are requesting an opinion from you concerning the status of this institution. It must be determined whether or

not this institution is or is not a penal institution. If this institution has been defined by State statute to be a penal institution it is not eligible to receive the commodities.

“Will you give me an official opinion on this question?”

The Lake County Detention Home is maintained under authority of the Acts of 1945, Ch. 356, Sec. 22, as found in Burns' Indiana Statutes (1956 Repl.), Section 9-3222, which provides in substance that the Detention Home may be established by the Juvenile Court to be conducted as an agency of said Court. Under the provisions of this Act it is mandatory for any detention home established as an agency of the Court to be furnished and carried on, as far as possible, as a family home in charge of a superintendent.

The jurisdiction of the Juvenile Court includes dependent and neglected children as well as delinquent children.

Acts of 1945, Ch. 356, Secs. 5 and 6, as found in Burns' Indiana Statutes (1956 Repl.), Sections 9-3205 and 9-3206.

Juvenile Delinquency is not a crime, nor are delinquent children regarded or classified as criminals.

State *ex rel.* Johnson v. White Circuit Court (1948), 225 Ind. 602, 77 N. E. (2d) 298.

It would appear, therefore, that a detention home, established to care for delinquent children coming under the jurisdiction of the Juvenile Court, cannot be considered as a penal institution, but rather as an arm of the Juvenile Court, established to facilitate the handling of said delinquents.