OPINION 35

OFFICIAL OPINION NO. 35

July 26, 1955

Mr. Hugh P. O’Brien, Chairman
State Board of Correction
208 State House
Indianapolis, Indiana

Dear Mr. O’Brien:

I have before me a request for an Official Opinion which was originally made by Mr. Donald W. Burres, Chairman of the Board of Parole of the Indiana Reformatory, and was submitted to us through your office.

The question presented is whether or not the Board of Parole of the Indiana Reformatory can discharge an inmate of that institution who has not previously been placed upon parole, for the purpose of releasing him to the custody of authorities of another state. The usual purpose for such discharge being to release the subject to a wanting authority outside the State of Indiana.

The Acts of 1897, Ch. 53, Sec. 13, as found in Burns’ Indiana Statutes (1942 Repl.), Section 13-412, provides that an inmate of the Indiana Reformatory may be discharged by parole authorities only after having served one year upon parole. With this provision in the statute it becomes apparent that the parole authorities of the Indiana Reformatory have no authority to grant an inmate an absolute discharge directly from the institution prior to the serving of his maximum sentence. Therefore, the use of such a discharge to effect a release to a wanting authority is not contemplated in the statutes. Such a release could be by commutation of sentence by the Governor of Indiana and a release of the subject to the wanting authority upon the presentation of extradition papers on the effective date of commutation. Also an inmate who has been placed on parole could be taken by wanting authorities on either a waiver of extradition or upon a Governor’s warrant for extradition.

It should be noted that the above statute applies only to the Indiana Reformatory and that the Indiana State Prison is governed by a separate statute which does not contain the provision that the inmate should be on parole one year before a discharge can be had. I would refer you to the Acts of 1897,
Ch. 143, Sec. 9, as found in Burns' Indiana Statutes (1942 Repl.), Section 13-252. Examination of this section of the statute indicates that the subject could be paroled by the proper authorities and immediately given an absolute discharge from his sentence. Thus, in the case of State Prison inmates, it would seem that the practice of giving a parole and a parole discharge in order to release the man to a wanting authority would be permissible under the existing law so far as inmates of the Indiana State Prison are concerned, after a determination by the Board of Parole in conformity with the provisions of the Acts of 1897, Ch. 143, Sec. 9, as found in Burns' Indiana Statutes (1942 Repl.), Section 13-252.

OFFICIAL OPINION NO. 36

July 28, 1955

Honorable Crawford Parker
Secretary of State
201 State House
Indianapolis 4, Indiana

Dear Mr. Parker:

Receipt is acknowledged of your letter requesting an Official Opinion which reads as follows:

"We are asking an official opinion from your office of whether or not the above captioned Corporation is doing business in the State of Indiana.

"The facts are as follows:

"(1) The New England Coal and Coke Company is a Massachusetts corporation and is a sales and distribution corporation for coal. It is a wholly owned subsidiary of the Eastern Gas and Fuel Associates, also a Massachusetts corporation, which is a mining corporation.

"(2) The New England Coal and Coke Company signed a contract with four (4) Indiana coal mining corporations. One of the coal mining corporations is Walter Bledsoe and Company, operating in Vigo Coun-