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It is therefore my opinion that the 1919 tax laws creating a direct property tax on intangibles and exempting charities was repealed as to intangibles by the Acts of 1933, Chs. 81, 82 and 83, supra, creating an excise tax on intangibles and excluding certain other taxes thereon. I am of the further opinion that the Acts of 1945, Ch. 170, supra, restored the exemption granted charitable institutions under former laws and that the Acts of 1945, Ch. 170, supra, now extends to charitable institutions full exemption from tax liability on intangibles. Therefore, it is my opinion that charitable deposits in banks and trust companies are nontaxable.

OFFICIAL OPINION NO. 45

October 20, 1955

Mr. Harvey B. Stout
State Service Officer
Veterans' State Service Dept.
431 North Meridian Street
Indianapolis, Indiana

Dear Mr. Stout:

This is in reply to your two letters to me under date of September 19, 1955, in which you request an Official Opinion as to whether or not a person committed to a hospital as a criminal sexual psychopath, upon release, must be restored in exactly the same manner as a person who is adjudged insane and committed to a hospital, and you also request an Official Opinion as to whether or not an alcoholic, upon his release, must be restored in the same manner as a mental patient committed to a hospital.

In view of the fact that both of your letters relate to similar subjects, I will take the liberty of answering both of your inquiries in one Official Opinion.

The Acts of 1949, Ch. 124, Sec. 1, as amended, as found in Burns' Indiana Statutes (1942 Repl., 1953 Supp.), Section 9-3401, provides that any person over the age of sixteen [16] who is suffering from a mental disorder and is not insane or feebleminded, which mental disorder is coupled with criminal propensities to the commission of sex offenses, is declared to
be a criminal sexual psychopathic person. Section 3 of said Act, as found in Burns' Indiana Statutes (1942 Repl., 1953 Supp.), Section 9-3403 provides, among other things, that when any person is charged with a criminal offense, except murder, manslaughter or rape on a female child under the age of twelve [12], upon proper hearing, the court may commit such person to the Department of Mental Health and said Department shall thereupon confine such person in an appropriate state institution until such person shall have fully and permanently recovered. Section 8 of said Act, as found in Burns' Indiana Statutes (1942 Repl., 1953 Supp.), Section 9-3408 provides that upon petition filed before the committing court, and after hearing had by said court, if such court finds that such person has recovered, the court shall order his discharge from custody; otherwise, the person shall be recommitted to the Department of Mental Health. His discharge from custody is not governed by the law providing for the discharge of persons who have been adjudged insane and committed to a hospital for insane persons.

Your next question with reference to the Acts of 1955, Ch. 338, as found in Burns' Indiana Statutes (1950 Repl., 1955 Supp.), Sections 22-4240 to 22-4245, provides for the discharge of patients from psychopathic hospitals and provides for the procedure thereof and repeals all laws in conflict therewith, but exempts from the provisions of the Act the discharge and parole of criminal psychopaths and voluntary admission cases.

The law for the rehabilitation of alcoholics is found in the Acts of 1953, Ch. 194, as found in Burns' Indiana Statutes (1950 Repl., 1955 Supp.), Sections 22-4401 to 22-4417. Under Section 22-4409, supra, it provides for the voluntary application of a person to be declared an alcoholic, and specifically provides that such voluntary applicant shall not thereby forfeit nor abridge any of his rights as a citizen of the state or of the United States. It further provides in Section 22-4410 that the court committing such alcoholic to an institution shall provide for the length of time the judge finds would be adequate for his treatment, but in no case for more than six [6] months, and that the court may discharge such person at any time during that period of six [6] months whenever the court finds that the person has been cured and that further confinement and treatment are not necessary.
In answer to your question as to whether or not a person committed as a criminal sexual psychopath must be restored in the same manner as a person committed to the institution for the insane; it is my opinion that said question should be answered in the negative.

It is my opinion that a person committed to a hospital as a criminal sexual psychopath may be discharged only in accordance with the Acts of 1949, Ch. 124, Sec. 8, supra, and his discharge from custody is not governed by the law providing for the discharge of persons who have been adjudged insane.

It is my further opinion that a person committed to a hospital as an alcoholic under the authority of the Acts of 1953, Ch. 194, supra, forfeits no rights as a citizen of the state or of the United States, and there is no necessity for court proceedings for the restoration of said alcoholic at the time of his discharge.

OFFICIAL OPINION NO. 46

October 20, 1955

Senator Willis K. Batchelet
321 N. Martha Street
Angola, Indiana

Dear Senator Batchelet:

This is in reply to your letter of September 21, 1955, in which you request my Official Opinion relative to court costs in estate matters. Your letter reads, in part, as follows:

"Questions have been raised from several sources regarding the proper interpretation of Section 3 of Chapter 133, Acts of 1955, as that section relates to the charging of fees by the Clerk of the Circuit Court in matters of estates, guardianships, etc., Section 3 provides as follows:

"'In any matter pending in any court of this state at the time of the effective date of this Act, the clerk of the circuit court of any county shall tax, charge and collect the fees as are provided and stipulated in this Act.'"