

OPINION 51

“(b) The provisions of this Act shall apply to all agencies of the State. As used in this Act the term ‘agencies of the State,’ ‘agency,’ or ‘agencies’ shall mean and include every officer, commission, department, division, bureau, committee, employee and other instrumentality of the state including without limiting the effect of the foregoing, state hospitals, state penal institutions and other state institution enterprises and activities wherever located; *but excepting, unless specifically included, military officers and military and armory boards of the state* and the state fair board, state Supreme and Appellate Courts and state colleges and universities supported in whole or in part by state funds and persons and institutions under their control and excepting all counties, cities, towns, townships, school towns, townships and cities and other municipal corporations or political subdivisions of the state.” (Our emphasis)

Therefore, where it becomes necessary to purchase real estate for the erection and construction of armories, such real estate is to be purchased in the name of the State of Indiana, by and through the State Armory Board and in my opinion such Board is excepted from the provisions of the “Financial Reorganization Act of 1947.”

OFFICIAL OPINION NO. 51

October 4, 1954

Hon. Arthur Campbell
Board of Correction
210 State House
Indianapolis 4, Indiana

Dear Mr. Campbell:

In your letter of September 20, 1954, you requested the opinion of this office as to the authority of the Warden of the Indiana State Prison to take Charles M. Basham, a former inmate of the prison, again into custody.

It is my understanding that the facts as to his status are as follows:

1. He was convicted on July 23, 1941 in the St. Joseph Circuit Court, of two offenses, receiving two sentences of not less than two nor more than fourteen years, and of not less than two nor more than twenty-one years. These sentences ran concurrently and he was committed to the Indiana Reformatory.

2. While on parole from the Indiana Reformatory, Basham was again convicted in the St. Joseph Circuit Court on October 10, 1947, for the offense of burglary, and was sentenced to the Indiana State Prison for a term of not less than two nor more than five years.

3. On June 23, 1952, Basham received a discharge on both sentences of July 23, 1941, was given a new prison number, and started to serve the sentence of October 10, 1947.

4. On December 17, 1952, the LaPorte Circuit Court, acting upon a writ of habeas corpus and return thereto, ordered the immediate release of Basham from the custody of the Warden of the Indiana State Prison, and he was thereupon released in response to said judgment.

5. After appeal taken, the Supreme Court of Indiana, in Cause No. 29029, reversed the judgment of the LaPorte Circuit Court and remanded the cause with instructions to deny the writ. [Dowd v. Basham (1954), 116 N. E. (2d) 632.]

6. Basham at the present time is at large from the Prison, but being held to answer another charge, on bond.

Your authority to hold him is the commitment from the St. Joseph Circuit Court, dated October 10, 1947, together with the two prior commitments and the discharge therefrom dated June 23, 1952. The Supreme Court, as you will note, specifically held that the sentence imposed on October 10, 1947, began to run on June 23, 1952. I am enclosing a copy of this opinion of the Court, for your files, and I suggest that you obtain a certified copy of the entry of the LaPorte Circuit Court, dated January 29, 1954, in Cause No. 23226, showing that the mandate of the Supreme Court has been carried out, and that Basham has been denied his release.

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As soon as this man has either been committed again to the custody of any warden or superintendent within the Department of Correction, and transferred or received at the Indiana State Prison, or has been released from the jurisdiction of the St. Joseph Circuit Court on the new charge presently pending, you have full authority to take him into custody to serve the sentence which began to run on June 23, 1952.

OFFICIAL OPINION NO. 52

October 7, 1954

Bertram Groesbeck, Jr., M. D.
Director of Health
State Board of Health Building
1330 West Michigan Street
Indianapolis 7, Indiana

Dear Doctor Groesbeck:

I have your letter requesting an Official Opinion which I quote in part as follows:

“In order to facilitate admission to the Riley Hospital of pupils of the Indiana State School for the Deaf and the Indiana School for the Blind who are in need of hospitalization, your opinion is respectfully requested as to the status of the schools as benevolent institutions.

“Chapter 98, Section 2 of the Acts of 1907 state that the Schools for the Blind and Deaf ‘shall not be regarded, nor classed, as benevolent or charitable institutions.’ Under the provisions of this Act, these schools have been excluded from the provisions of Chapter 300, Sections 4 and 5 of the Acts of 1947 which provides for the admission of inmates of benevolent institutions to state hospitals.

“However, in Chapter 38 of the Acts of 1941, which presumably enumerates the benevolent institutions, the schools are specifically referred to. Furthermore, Article IX of the State Constitution apparently includes the schools under the category of benevolent institutions.”