the opposite result may be reached by a court to which it is submitted as it is a question of first impression in this state and a close question.

2. As to any agency of government, municipality, or political subdivision which cannot legally contract to spend without appropriation, the validity of such contract depends upon their being an existing appropriation for the payment of premiums coming due in the appropriating period of the contract's execution. Any premiums thereafter provided for would be subject to due appropriation being made therefor.

3. Any such insurance contract would not be binding upon a succeeding board or official.

4. The only really safe method is to obtain legislative sanction and authority for such contracts of insurance.

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OFFICIAL OPINION NO. 50

September 23, 1954

The Adjutant General
212 State House
Indianapolis, Indiana

Dear Sir:

I am in receipt of your request for an Official Opinion regarding the following queries, to-wit:

"1. * * As to whether or not the State Armory Board is the proper agency of the State to purchase real estate for the erection and construction of armories.

"2. If the State Armory Board is the proper agency in this case, is this Board excepted from the provisions of the 1947 Indiana Financial Reorganization Act regarding such purchases?"

In reply to your first question, the Acts of 1953, Ch. 187, Sec. 211, as found in Burns' Indiana Statutes (1952 Repl., 1953 Supp.), Section 45-1911, provide:
“The state armory board, as appointed is hereby empowered and directed to erect or provide, anywhere within the limits of this state, upon such terms and conditions as shall be decided upon by said armory board as most advantageous to the state, armories for the use of the military and naval forces of Indiana, which armories shall be used for drill, meeting and rendezvous purposes by the organization of the military or naval forces occupying same, and in which shall be stored and safely kept all property of the United States or of the state, issued to such organization for military or naval purposes.” (Our emphasis)

The Acts of 1953, Ch. 187, Sec. 212, as found in Burns' Indiana Statutes (1952 Repl., 1953 Supp.), Section 45-1912, provide:

“Said state armory board shall have full authority to purchase real estate in the various localities throughout the state where it shall be deemed necessary to provide armories; said real estate, in each instance, to be purchased in the name and for the use of the state of Indiana, and, upon the grounds so purchased, the armory board is authorized and directed to erect, for the use of such company, battery, troop, battalion, regiment, division organization, air squadron or group, an armory to be used for meetings, rendezvous and drill purposes, and in which shall be stored the ordnance stores, quartermaster stores and other property issued to the organization occupying said armory. When such armory or armories are erected or provided, the said armory board shall have charge thereof, and arrange for its occupancy and use under the direction and responsibility of the senior officer in command of such company, battery, troop, battalion, regiment, division organization, air squadron or group.” (Our emphasis)

This clearly answers your first question in the affirmative.

I now refer you to the Acts of 1947, Ch. 279, Sec. 1 (b), as found in Burns' Indiana Statutes (1951 Repl.), Section 60-1801, known and cited as the “Financial Reorganization Act of 1947,” as follows:
"(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.”

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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:

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