for the pardon or parole, other than the temporary parole, of any person who shall have been convicted by any court of this state and to report to the governor, in writing, its conclusions and recommendations in each such case."


The act neither gives nor purports to give to the commission any authority to either pardon or parole a prisoner; nor does it give to the commission the custody of a paroled prisoner. The commission is simply advisory to the governor in the exercise of his constitutional power to grant reprieves, commutations and pardons. Article 5, section 17, Indiana Constitution.

I do not think, in view of the foregoing, that chapter 117, supra, should be held to repeal provisions of other existing laws placing the custody of prisoners paroled pursuant to the provisions of the Indeterminate Sentence Law in the board of trustees of the institution to which the prisoner was committed. I think, too, that there are obvious reasons in favor of leaving the custody of prisoners paroled upon the recommendation of the "State Commission on Clemency" with the boards of trustees of the institutions to which such prisoners were committed. However, it is proper to observe in this connection that the governor in issuing a parole upon the recommendation of the commission, may attach conditions not inconsistent with law (Woodward v. Murdock, 124 Ind. 439 at page 443); and if, in his opinion, it is desirable to have the paroled prisoner report at stated periods to said commission instead of to the board of trustees of the prison, I can see no objection to that procedure; but, in my opinion, the custody of the prisoner during the period of parole should remain with the institution to which the prisoner was committed.

SECRETARY OF STATE: Filing of annual reports with Railroad Commission by rail carriers.

March 17, 1933.

Joseph O. Hoffman,
Chief Corporation Counsel,
Secretary of State's Office,
Indianapolis, Indiana.

Dear Mr. Hoffman:
I have before me your inquiry of February 16, 1933, in which you ask me to determine whether or not the provision
of the Railroad Commission Act of 1905, which required rail carriers to file with the railroad commission certain annual reports, superseded and by implication repealed section 25 of the Railroad Act in force May 6, 1853 (section 13244 Burns Indiana Annotated Statutes of 1926).

In my opinion, the latter act supersedes and repeals by implication the former. The legislative policy in creating the railroad commission and requiring railroads to file annual reports with that commission most certainly had for its purpose control by the railroad commission of all matters dealing with the rates and services of rail carriers and intended to withdraw from the secretary of state such regulation and control of railroads as are found in the former Railroad Act.

To require the filing of the report with the secretary of state, since the creation of the railroad commission, would be needless duplication and could be of no benefit to either the public or the carriers.

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INSURANCE COMMISSIONER: Whether foreign insurance companies are privileged to deposit securities with this department.

March 17, 1933.

John C. Kidd,
Commissioner of Insurance,
Indianapolis, Indiana.

Dear Mr. Kidd:

I have before me your inquiry of March 1, 1933, with reference to the legality of the Illinois Bankers Life Assurance Company, depositing with the insurance department of Indiana certain securities covering the business of that company in this state. I note that you state in your letter of inquiry that the company itself is not averse to making the deposit.

I find under the provisions of section 9150 Burns Indiana Annotated Statutes of 1926, that domestic insurance companies are privileged to deposit securities with your department, but I have been unable to find any statutory authority whereby foreign insurance companies may avail themselves of a similar provision.

Inasmuch as the depositing of the securities would not benefit the policyholders in Indiana, due to the fact that the department would have no jurisdiction over the securities so