BOYS' SCHOOL, FIELD AGENTS OF: Legislation necessary to confer general police power.

December 16, 1936.

Hon. E. M. Dill,
Superintendent, Indiana
Boys' School,
Plainfield, Indiana.

Dear Sir:

I have at hand your letter of November 11th, in which you inquire as to what procedure would be necessary for you to secure police power for the field agents of the Indiana Boys' School.

There is no present statute which would authorize investing your agents with general police power, and consequently it would be necessary for the legislature to pass a proper enabling act before such could be done.

Section 14, Chapter 18, Acts of 1883 (Section 13-925, Burns Annotated Indiana Statutes, 1933) provides, however, that "any fugitive" from your institution may be arrested and returned "by any officer or citizen." This Section would give your field agents ample authority to arrest and return actual "fugitives" from your institution, just as such power is given to any citizen or any other peace officer; but otherwise it would confer upon them no general or special police power or authority as peace officers.

STATE BOARD OF TAX COMMISSIONERS: Burial of Soldiers, amount which county may pay in such cases.

December 18, 1936.

State Board of Tax Commissioners,
Philip Zoercher, Chairman,
231 State House,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter requesting an official opinion in answer to the following questions:
“Is the county compelled to pay a fixed amount not to exceed $75.00 for the burial of every soldier, even though the soldier’s estate may be fully able to pay for the same; and can the Board of Commissioners use discretion in allowing different amounts in different cases? Or in other words, must the same amount be allowed in each case?”

The statute which prompts your inquiry is Section 59-1009, Burns Indiana Statutes Annotated, 1933, which provides as follows:

“Whenever any honorably discharged soldier, sailor or marine who may have at any time, served as a regular or volunteer soldier, sailor or marine in the army or navy of the United States, or the wife or widow of any such soldier, sailor or marine, resident of any county of this state, other than the inmates of the Indiana State Soldiers’ Home or the National Military Home in Grant County, shall die, upon claim filed by any interested person with the board of commissioners of the county, stating the fact of such service, death and discharge, and that the body has been buried in a decent and respectable manner in a cemetery or burial ground, such board of commissioners shall investigate, hear and determine such claim like other claims filed for allowance by them, and if the facts averred are found to be true, such board shall consider, also, the tribute of respect due to such soldier, sailor, or marine and make allowance of such claim in a sum not exceeding seventy-five dollars ($75.00) for service rendered and material furnished in care of such body and such burial: And be it further provided, That, in case of such death and burial, (if) it is averred in such claim and proven that, from actual necessity, a burial place, not to exceed the sum of twenty-five dollars ($25.00) for the body of such soldier, sailor or marine, or the body of the wife or widow of such soldier, sailor or marine, was purchased in any cemetery, such board shall make further reasonable allowances in payment for such burial place, and such allowance, in either or both cases, shall be paid from the funds of such county as now provided by law.” (Our italics).
The language of the above statute, it seems to me, is clear. The italicized portion of the statute shows that the claim is not based upon the administration of a charity but the board is required to consider "the tribute of respect due to such soldier." The Board, however, clearly is permitted to exercise discretion since the language fixing the amount of the allowance is "in a sum *not exceeding seventy-five dollars.*"

"GOOD TIME LAW": Manner of computing allowance on unexpired terms of those incarcerated before law became *** Chapter 164, Acts 1933, construed.

December 18, 1936.

Hon. A. F. Miles,
General Superintendent,
Indiana Reformatory,
Pendleton, Indiana.

Dear Mr. Miles:

I have at hand your recent inquiry as to the proper method of computing diminution of time on the unexpired sentences of prisoners already confined in your institution when the 1933 "Good Time Law" became effective.

Section 1 of the so-called "Good Time" Act (Chapter 164, Acts 1933) says that the diminution of the sentence therein granted shall be "as indicated in the following table for the respective years of his or her sentence ***." (My italics.) The table referred to, which is set out in said Section, lists the diminution of time allowed for each consecutive year of the sentence, granting one month off for the "1st year," two months for the "2nd year," three months for the "3rd year," four months for the "4th year," and five months for each of the years from the "5th year" to the "21st year," inclusive.

Section 3 of the Act provides as follows:

"The warden or superintendents, in computing the diminution of time for those inmates now in the institutions mentioned in Section 1 of this Act, may allow them the good time granted for the years or year, or part of a year, of their unexpired sentence."