It has also been held that the office of director of the Southern Prison is a lucrative office.

Howard v. Shoemaker, 35 Ind. 111.

Unquestionably the trustees of the Muscatatuck Colony are lucrative offices in the state, and the superintendent employed by them and charged by law with the joint responsibility of operating this state institution would also be deemed a lucrative office under the laws of the state.

This being true, it is my opinion that your acceptance of the position as superintendent of the Muscatatuck Colony vacates your office as a member of the General Assembly.

BARBER EXAMINERS, STATE BOARD OF: Power of board to make certain rules and regulations. Barber schools commissions paid to students. Regulating of prices charged.

July 15, 1938.

Mr. Frank McKamey,
Secretary, Indiana State Board of Barber Examiners,
State House,
Indianapolis, Indiana.

Dear Sir:

This will acknowledge receipt of your request for an official opinion in answer to the following inquiry:

"Can this board legally make a ruling:

1. To prohibit barber schools from paying commissions to students for work done by them?
2. To prohibit such schools from charging customers more than an amount sufficient to pay for the supplies used?"

Your attention is directed to section 23, chapter 48, Acts of 1933 (Burns' Indiana Statutes Annotated 1933, section 63-323), which reads in part as follows:

"The board shall have authority to make reasonable rules and regulations for the administration of the provisions of this act ** *."
It will be noted that the only authority of the board in promulgating rules and regulations is for the purpose of administering the provisions of the Act.

Chapter 48, Acts of 1933, and chapter 65, Acts of 1937 may be searched in vain for any authority of the board to make such rules as are mentioned in your inquiry. The law neither prohibits the paying of commissions to students nor limits the charge to be made for work done in these schools and it is difficult to see how the promulgation of such rules would aid, or be necessary or expedient in the administration of your law.

In the case of Blue v. Beach, 155 Ind. 121, 131, 56 N. E. 89, in construing the powers of boards to make rules and regulations, the court said:

“It is true that such rules and by-laws must be reasonable, and boards of health cannot enlarge or vary by the operation of such rules, the powers conferred upon them by the Legislature, and any rule or by-law which is in conflict with the state’s organic law, or antagonistic to the general law of the state, or opposed to the fundamental principles of justice, or inconsistent with the powers conferred upon such boards, would be invalid.”

See also Wallace v. Feehan, 206 Ind. 522, 190 N. E. 438.

I am therefore of the opinion that your question should be answered in the negative.

PUBLIC INSTRUCTION, DEPARTMENT OF: Teachers’ contract. Right to demote superintendent who has five-year written contract.

July 15, 1938.

Mr. Grover Van Duyn,
Assistant Superintendent of Public Instructions,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter in part as follows:

“A superintendent in a city system, holding a tenure contract, is awarded a five-year contract with a defi