organized for and what it actually does, it is evidently proper to consider it as "a division or branch of governmental administration," a department.

In my opinion, therefore, there is no question as to the position of Indiana University as a state institution organized for and operating in the discharge of a state function, and while, in the conventional sense it has been termed an instrumentality of government, probably because of the character of its organization, when the question is approached from the standpoint of the purpose of its organization and what it actually does, it should be treated as a department within the definition given earlier in this opinion, especially in view of the decision in Emergency Fleet Corporation, etc. v. Western Union Telegraph Company, supra.

MINES AND MINING, DIVISION OF: Intake air, when ceases to be motor in mine on air course. Mines, motor on airway in.  

October 28, 1938.

Mr. Fred Ferguson,  
Director, Bureau of Mines and Mining,  
Dept. of Commerce and Industries,  
Division of Labor,  
State House,  
Indianapolis, Indiana.  

Dear Sir:  

Your letter of October 27, asks an opinion as to the meaning of a portion of clause F, section 11 of chapter 177 of the Acts of the Indiana General Assembly for 1923. The portion of the statute with which you are concerned reads as follows:

"Hereafter where electricity is installed no higher than two hundred seventy-five (275) volts shall be used under-ground, except for transmission, or for application to transformers or other apparatus, where the high voltage circuit is stationary. High voltage motors, and transformers, shall be installed in suitable chambers, built of fire proof construction, and well
ventilated, and shall not be placed on intake, or between intake and return air courses."

The particular question with which you are concerned has to do with the placing of a motor or a transformer on an air course and you are interested in knowing what generally can be denominated as a return air course.

The underground coal mines in Indiana are driven generally either on the two entry or four entry system. In either event a part of the entries in a single group is used as an air passage for the fresh air which is forced from the outside into the innermost workings of the mine. This part is referred to as the intake air course. The other part generally designated as the return air course serves to carry the used air back to the bottom of the mine where it is expelled up the shaft or the slope whichever might be the case.

Your specific question is when does air cease to be intake air, the corollary would be when does air become return air. In the circumstances about which you speak the air in the entry way in which a motor or a transformer is to be set is started in the general direction of the bottom of the shaft to be expelled to the outside. However, after the air has passed the point where the motor or transformer whichever the case might be is located, it then circulates through portions of the mine in which some men are working.

The statute above quoted prohibits the installation of a high voltage motor or transformer on the intake side or between the intake and return air courses. Your question then ultimately resolves itself into this: whether or not the fact that air must still pass to workmen makes it intake air even though it circulates in the working places after it has started in the general direction of the bottom of the mine.

While I believe the intention and purpose behind this particular section of the law was the protection of workmen against noxious gases or fumes from the transformers or motors or both and to advert in the event of a fire particularly in a transformer containing many gallons of oil, the possibility of workmen being on the down side of the air draft, nevertheless in my opinion the Legislature has not expressed that intention in adequate language.

The word return is defined in Webster's International Dictionary to mean to come back to the place again. Therefore
in my opinion air ceases to be intake air and becomes return air when it begins to go back in the general direction of the place from whence it came.

In the problem which you put, while the mining corporation might not be violating the letter of the law, they are ignoring its intention. The fact that some of the workmen are on the down side of the air subjects them to a possible hazard in the event of fire around the motor or transformer. I would think that the mining corporation would be amenable to a suggestion that the motor or transformer be placed on the return side of the air beyond the last working place where men are regularly employed because the increased hazard to the lives and physical well being of the men would possibly cause some concern to the compensation insurance carriers.


October 28, 1938.

Mr. Ross F. Lockridge,
Chairman, New Harmony Memorial Commission,
Indiana University Foundation Building,
Bloomington, Indiana.

Dear Sir:

Receipt is acknowledged of your inquiry, which is as follows:

"The old Harmony Society, better known as "The Rappites, or George Rapp and Associates," that settled the famous colony in Posey County on the lower Wabash in 1814—now New Harmony—still holds title to the old Rappite Cemetery in the heart of the town. It is a very interesting place—some three acres square, surrounded by a brick wall, placed there by the Rappites themselves, nearly fifty years after they left, from bricks taken from their great church, after it was destroyed by a storm. Two hundred thirty Rappites are buried there, but there is no sign of marker or mound—all grassed over just as they left it. It is a very