POLICE, INDIANA STATE: Duty of sheriffs and wardens of prisons and reformatories to receive persons arrested by state police.

January 31, 1938.

Mr. Don F. Stiver,
Superintendent, Indiana State Police,
State House,
Indianapolis, Indiana.

Dear Sir:

I am in receipt of your request for an official opinion, dated January 27, 1938, which is in the following words:

"At the request of Warden Kunkel of Indiana State Prison, Michigan City, wish to request an official opinion as to the legal right of the warden of either the state prison or reformatory to receive and detain prisoners arrested by state police officers, under section 17, Acts of 1935, chapter 299, page 1463."

The section referred to in your letter is here set out:

"Sec. 17. Any person having charge of a jail, prison or reformatory or other place of detention shall receive any prisoner arrested by a police employee of the department within the jurisdiction served by such jail, and shall detain him in custody until otherwise ordered by a court of competent jurisdiction, or by the superintendent; and such person who shall refuse to so receive any prisoner or who, having received him, shall release him otherwise than as above specified, shall be subject to removal from office by the Governor."

The above section, as set out, is short, clear and contains mandatory language. In my opinion, the language of the statute is so plain and clear that it is not to be subject to construction or to require it. It is apparent that this statute places the custodians of jails and the several wardens and superintendents of our penal institutions under an absolute duty to receive and to keep in custody any persons arrested by employees of the state police department and to maintain such detention until an order for release shall issue from a court of competent jurisdiction or from the superintendent of the state police.
While, as I have above indicated, the duty of such wardens and custodians to receive persons arrested by the state police is clear, as a matter of practice and policy, I think it wise that resort to this procedure not be taken save in cases of emergency. I offer this suggestion for the reason that, in the ordinary run of arrests, the proper place for detaining such arrested persons is the county jail of the county in which they are apprehended.

It might be helpful to point out that already existing procedure permits the removal of arrested persons from county jails to Michigan City or Pendleton upon a showing that such county jail is unsafe or inadequate.

LIBRARY, INDIANA STATE: Commission of public records —manner of destruction of records.

February 1, 1938.

Hon. C. B. Coleman,
Director, Indiana State Library,
Indianapolis, Indiana.

Dear Sir:

This will acknowledge receipt of your letter of January 28 in which you ask as to the right of the commission on public records to sell obsolete records for waste paper.

In reply to this question, your attention is directed to section 3, chapter 219, Acts of 1935, which reads as follows:

"Sec. 3. All public records which, in the judgment of the commission, have no official or historical value, and which occupy space to no purpose in the offices and store rooms of the state, shall be destroyed or otherwise disposed of. No such records shall be destroyed until a period of at least three years shall have elapsed from the time when they were originally filed, and no public record shall be destroyed within a period of three years if the law provides that they shall be kept for a longer period of time, or if the law prohibits their destruction."

The phrase "destroyed or otherwise disposed of" is exceedingly broad. The word "destroy" means generally to render unfit for further use.