served and conferred upon said Commissioner of the Division of Medical Institutions. By Section 505 of said Act, supra, the Board of Trustees of the School for the Blind was abolished.

The above statutory history is an example of the confusion which can arise from the blanket transfer of powers from an abolished board to a newly created board or official, and particularly where there is a succession of such transfers.

It is my opinion that the authority to employ suitable blind persons and to pay the same suitable wages in the workshops provided has been preserved and is now vested in the Commissioner of the Division of Medical Institutions. I am further of the opinion that under the power vested in the Division of Procurement and Supply, which power was transferred to and became vested in the Director of Public Works and Supply, that the exchange or purchase of products or articles between the penal and benevolent institutions is permitted and authorized at valuations fixed by the Director of Public Works and Supply; that the Vocational School for the Blind is a benevolent institution and that except where similar articles are made therein, the political divisions of the State using such supplies produced under the supervision of Industrial Aid for the Blind are required to purchase such articles, such transactions being handled by the Director of Public Works and Supply, under the Acts of 1947, Ch. 279.

---

OFFICIAL OPINION NO. 43

July 12, 1954

Dr. L. E. Burney, M. D.
Commissioner of Health and Preventive Medicine
State Board of Health
1330 West Michigan Street
Indianapolis, Indiana

Dear Doctor Burney:

I have your letter of April 14, 1954, requesting an Official Opinion, which reads as follows:

"I am in receipt of correspondence from Doctor Henry G. Nester, Director of Public Health of the
Health and Hospital Corporation of Marion County, requesting clarification in regard to the release to the public, information as to the usual residence of the mother contained on a certificate of birth. His letter in part is as follows:

"Section 1210 of the Public Health Code, Chapter 157, Acts of 1949, provides that a record of births open for public inspection show the name, sex, date of birth, place of birth, name and birthplace of parents and date of filing certificate of birth. It is not specified that the home address of the parents be open for public inspection.

"The Board of Trustees of the Health and Hospital Corporation of Marion County have asked that I write you requesting an opinion from the attorney general as to whether the home addresses of the parents may be released to the public.'

"It is my understanding the Department of Public Health and Hospital Corporation of Marion County retains a photographic reproduction of the original certificate of birth for official record purposes. The usual residence of the mother is required on the original certificate of birth; however, it is not one of the items specifically named in Section 1210, Chapter 157, Indiana Acts of 1949.

"Upon receipt of Doctor Nester's letter, a request for an unofficial opinion was made to our Deputy Attorney General. It became evident that such an opinion may effect each health jurisdiction in the state of Indiana and therefore an official opinion was deemed advisable. May I respectfully request your official opinion in regard to the confidentiality of the usual address of the mother when such information is retained in the records of a local health department."

In order to resolve this problem, the chronological enactments of laws pertinent to this question should be considered. The Acts of 1945, Ch. 154, Sec. 12, as re-enacted and modi-
fied by the Acts of 1949, Ch. 157, Sec. 1237, as found in Burns' Indiana Statutes (1949 Repl.), Section 35-2103 provides:

"The records and files of the division of the state board of health concerning vital statistics are subject to the provisions of this act and regulations of the state board; data therein contained may be disclosed only as follows:

1. Disclosure of illegitimacy of birth or of information from which it can be ascertained, may be made only upon order of a court or the judge thereof.

2. The state registrar shall permit inspection of the records or issue a certified copy of a certificate or part thereof if he is satisfied that the applicant therefor has a direct interest in the matter recorded and that the information therein contained is necessary for the determination of personal or property rights. His decision shall be subject, however, to review by the board or a court under the limitations of this section.

3. The board may permit the use of data contained in vital statistical records for research purposes only, but no identifying use thereof shall be made.

4. In any extraordinary case wherein the state registrar has satisfied himself that a direct tangible and legitimate public interest is subserved."

In 1949, the Legislature, along with re-enacting Section 1237, also added a new provision which provides as follows: [Acts 1949, Ch. 157, Sec. 1210, as found in Burns' Indiana Statutes (1949 Repl.), Section 35-1806].

"The local health officer from such birth certificate shall make a permanent record of the name, sex, date of birth, place of birth, name and birthplace of parents, and the date of filing of the certificate of birth which record shall be open to public inspection. Provided, however, that records of the birth of children born illegitimately shall be kept in a separate record and shall not be open to public inspection. Disclosure of illegitimacy of birth or of information from which it can be ascertained may be made only upon order of a court or the judge thereof." (Our emphasis)
In 1953, the Legislature enacted a law, commonly known as the Hughes Anti-Secrecy Law, contained in the Acts of 1953, Ch. 115, Secs. 2, 5 as found in Burns' Indiana Statutes (1951 Repl., 1953 Supp.), Sections 49-3905, 49-3908, which provide as follows:

"The term 'public records' shall mean any writing in any form necessary, under or required, or directed to be made by any Statute or by any rule or regulation of any administrative body or agency of the state or any of its political sub-divisions."

* * *

"Nothing in this act contained shall be construed to modify or repeal any existing law with regard to public records which, by law, are declared to be confidential. * * *"

A résumé of the above duly enacted law shows that the Chapter 154 of the 1945 Acts, as re-enacted in 1949, makes the certificate of birth a public record under the definition of public records as contained in the Hughes Anti-Secrecy Act, supra, but deems it to be confidential in nature. The confidential nature of the certificate of birth is retained by the second above-quoted provision of the Acts of 1953, Ch. 115.

The Acts of 1949, Ch. 157, provide for the maintaining of a new and different public record; said public record to be made from the certificate of birth and to contain the name, sex, date of birth, place of birth, name and birthplace of parents and the date of filing of the certificate of birth of all newborn children.

The two types of certificates of record required to be kept by the foregoing laws are set out as follows:

<table>
<thead>
<tr>
<th>Serial No.</th>
<th>Name of Child</th>
<th>Father's Name</th>
<th>Mother's Name</th>
<th>Place of Birth</th>
<th>Sex</th>
<th>Date of Birth</th>
<th>Birthplace</th>
<th>Filing Date</th>
<th>Birthplace</th>
</tr>
</thead>
</table>

* * *
1. PLACE OF BIRTH
   a. COUNTY
   b. CITY (If outside corporation limits, write RURAL) OR TOWN
   c. FULL NAME OF (If NOT in hospital or institution, give street address or location) HOSPITAL OR INSTITUTION

2. USUAL RESIDENCE OF MOTHER
   a. STATE
   b. COUNTY
   c. CITY (If outside corporation limits, write RURAL) OR TOWN
   d. STREET (If rural, give location)

3. CHILD'S NAME
   (Type or print)

4. SEX

5a. THIS BIRTH
   Single.... Twin.... Triplet....

5b. IF TWIN OR TRIPLET
   This child born 1st... 2nd... 3rd...

6. DATE (Month) (Day) (Year)
   OF BIRTH......................19...

FATHER OF CHILD

7. FULL NAME
   a. (First)
   b. (Middle)
   c. (Last)

8. COLOR OR RACE

9. AGE (At time of this birth) YEARS

10. BIRTHPLACE (State or foreign country)

11a. USUAL OCCUPATION

11b. KIND OF BUSINESS OR INDUSTRY

MOTHER OF CHILD

12. FULL MAIDEN NAME
   a. (First)
   b. (Middle)
   c. (Last)

13. COLOR OR RACE

14. AGE (At time of this birth) YEARS

15. BIRTHPLACE (State or foreign country)

16. Children previously born to this mother (Do NOT include this child)
   a. How many OTHER children are now living?
   b. How many OTHER children were born alive but are now dead?
   c. How many children were stillborn (born dead after 20 weeks pregnancy)?

17. INFORMANT
Prior to the enactment of the Acts of 1949, Ch. 157, supra, and the Acts of 1953, Ch. 115, supra, the Attorney General of Indiana stated that it was his opinion that the records required to be kept pursuant to the Acts of 1945, Ch. 154, supra, were of a confidential nature and were not open to public inspection. [1948 O. A. G., page 300, No. 54.]

It is my opinion that the certificate of birth which is the record required to be kept by the Acts of 1945, Ch. 154, is still a confidential record and may be released only pursuant to the provisions of the Acts of 1949, Ch. 157, Sec. 1237, supra.

The other public record required to be kept by the provisions of the Acts of 1949, Ch. 157, Sec. 1210, supra, is open to public inspection at any and all times with the exception of the separate record required to be kept of births of children born illegitimately.

It is therefore my opinion that by reason of the fact that the address of the parents is not contained in the public record kept by the local health officer which is open to public inspection as required by the Acts of 1949, Ch. 157, Sec. 1210, supra, but is contained only in the certificate of birth which is confi-
dential, with the statutory exceptions noted, the home address of the parent may not be released to the public by such local health officers.

OFFICIAL OPINION NO. 44

July 14, 1954

Mr. Cecil Bolinger
Executive Secretary
Public Employes’ Retirement Fund
707 Board of Trade Building
Indianapolis 4, Indiana

Dear Mr. Bolinger:

Your letter of March 1, 1954, has been received requesting an Official Opinion on the following question:

"Are the employes of the Indiana Toll Road Commission to be considered employes of the State of Indiana? If so, are they compulsorily covered by the Public Employes' Retirement Fund?"

The Acts of 1951, Ch. 64, Sec. 1, as found in Burns’ Indiana Statutes (1951 Repl.), Section 60-1604, being an amendment to Section 4 of the original Public Employes’ Retirement Act, defines the word “employee” in part, as follows:

"'Employee' shall mean any person in the employ of the state whose compensation is paid out of funds of the state * * *.”

The Toll Road Commission statute, the Acts of 1951, Ch. 281, as found in Burns’ Indiana Statutes (1949 Repl., 1953 Supp.), Section 36-3201 et seq. was very fully considered by the Supreme Court of Indiana in the case of Ennis v. State Highway Commission (1952), 231 Ind. 311, 108 N. E. (2d) 687. On pages 324 and 325 of said decision the Court said:

“Appellant argues that a portion of Section 3, Chapter 281, of the Acts of 1951, contravenes the last-cited section of the Constitution of Indiana. Section 3 provides in part: