after occurring, as if such section, instead of the section which was blotted out by the amendment, had been a part of the original act. See Russell et al. v. The State (1903), 161 Ind. 481, 482, 68 N. E. 1019.

As previously shown, the sections of Chapter 74 of the Acts of 1931 which placed duties upon the township advisory board, have either been repealed or amended and those duties are placed upon the township trustees. Therefore, no duties are now laid upon the members of the advisory board by that Act and I think there is no authority for the payment of a one hundred dollar [$100.00] salary per annum under said Act.

It is therefore my opinion that all members of township advisory boards are limited to an annual salary of twenty-five dollars [$25.00].

OFFICIAL OPINION NO. 67

December 13, 1954

Hon. Charles F. Rutledge
State Senator
916 South “B” Street
Elwood, Indiana

Dear Senator Rutledge:

This is in reply to your letter in which you request an Official Opinion as to the following:

“1. What means are provided for the enforcement of Section 7, Chapter 266 of the Acts of 1953?

“2. May a violator of the above provision be prosecuted, and if so, what is the penalty?

“3. If such violator may not be prosecuted, what other legal remedy exists to enforce said provision?

“4. What agency, officer or other person is charged with the duty of enforcing this provision?”

The Acts of 1953, Ch. 266, Sec. 17, as found in Burns’ Indiana Statutes (1942 Repl., 1953 Supp.), Section 13-1517 provides as follows:
"The board of correction shall not, nor shall any other authority whatsoever, make any contract by which the labor or time of any inmate in any institution under the jurisdiction of the department of correction or the product or profit of his or her work shall be contracted, let, farmed out, given or sold to any person, firm, association or corporation, except that inmates in said institutions may work for, and the products of their labor may be disposed of, to the state or any political subdivision thereof, or to any public institution owned or managed and controlled by the state, or any political subdivision thereof."

It will be noted that the section of the statute in question has a dual prohibition in that it prohibits the contracting of prison labor and also the sale of the products of inmate labor, except to the state or any political subdivision thereof.

Our first consideration will be that of the hiring out of inmate labor. An examination of the statute and of the statutes still in force governing penal institutions in this state, fails to disclose any criminal penalty for such contracting or hiring out; therefore, no prosecution could be had for the enforcement of the statutory provision.

Therefore, the enforcement of this provision of the statute should be attained by and through the Department of Correction and the other departments and officers in the executive and administrative departments of the state government, which are charged with the day to day duty of the administration of penal institutions of the State.

We come next to the prohibition against the disposition of the products of inmate labor, and although the Acts of 1953 did not provide a criminal penalty for a violation, a search of the statutes discloses that the Acts of 1917, Ch. 83, Sec. 4, as found in Burns' Indiana Statutes (1942 Repl.), Section 13-104, makes it the duty of the Board of Trustees of the various penal institutions to notify the various state institutions and political divisions of the state by printed catalog or otherwise, of the kind of articles the said institutions produce and are prepared to furnish and the prices thereof, and further providing that no article shall be purchased elsewhere unless the same cannot be furnished by the named penal institutions. Section 5
of the same Act, supra, provides that persons violating these provisions are guilty of a misdemeanor and upon conviction therefor shall be fined not less than $100.00 nor more than $1,000.00, and in addition, may be removed from office. It will be noted that Section 1 of this Act, supra, authorized the manufacture of articles in the state institutions and provided for the sale of surplus goods, if any, upon the open market. The Acts of 1939, Ch. 137, Sec. 1, as found in Burns' Indiana Statutes (1942 Repl.), Section 10-4923, made it unlawful to sell institutional products on the open market, except to an individual for his own use.

Section 2 of this Act, supra, provides that any person who violates the provisions of this Act shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than $1,000.00, or by imprisonment of not more than ninety (90) days or by both fine and imprisonment, and further provides that it shall be the duty of the prosecuting officials of this state to enforce the provisions of this Act.

It will be noted that until the passing of the 1953 Act, it was not unlawful for surplus goods to be sold to an individual for his own use. Since the 1953 Act carries no criminal penalty it would seem that under the present law, although the sale of goods other than to a state institution is prohibited, the only means of enforcing this provision of the statute would be through the proper administrative officers and channels as set out above.

In your third question you ask what other legal remedy exists to enforce the statutory provision other than by prosecution. As previously stated, the remedy is of an administrative character. An examination of the language in the 1953 Act discloses that certain officials hold their appointments under the Governor for four (4) years and "shall hold office at the pleasure of the Governor." Although the specific term of four (4) years is mentioned, the following express language in each case that the office-holder holds his office at the pleasure of the Governor indicates an intention on the part of the Legislature that the Governor should have power to dismiss at any time.

Lesser officials who hold their position under the various appointive heads could be discharged in compliance with the
Acts of 1941, Ch. 139, Sec. 35, as found in Burns' Indiana Statutes (1951 Repl.), Section 60-1335.

As to your fourth question regarding the responsibility for enforcement of this provision, the previously stated instances calling for criminal prosecution would be enforceable through local law enforcement agencies. In those instances where no criminal sanction is provided, enforcement would be left entirely to superior officers within the administration of the department.

OFFICIAL OPINION NO. 68
December 15, 1954

Mr. Arnold H. Meister
State Fire Marshal
Administrator of Boiler Division
231 State House
Indianapolis, Indiana

Dear Mr. Meister:

This is in reply to your two letters to this office, the latter being November 12, 1954, requesting an Official Opinion on the construction of the Acts of 1953, Ch. 66, so you will be able to determine the extent of state inspection of boilers and pressure vessels in plants owned by the Federal Government and leased to private concerns; plants owned by the Federal Government and used by the Federal Government; and plants owned by private concerns and leased to the Federal Government.

The Acts of 1953, Ch. 66, Sec. 2, as found in Burns' Indiana Statutes (1950 Repl., 1953 Supp.), Section 20-633, provides:

"From and after the 1st day of July, 1953, it shall be the duty of the owner or user of each steam boiler, hot water heating boiler, hot water supply boiler, or unfired pressure vessel installed, used, or operated in this state to maintain or cause the same to be maintained in safe operating condition in accordance with the applicable standards prescribed or provided for by this act pertaining to inspection, repair, and allowable working