purposes sought to be accomplished by the incorporators."

The intent of the Act is therefore apparent to provide in a general act for any purpose not specifically covered by another incorporation act. Since specific provision is made for the incorporation of churches, religious societies and organizations by the 1943 Act, I am of the opinion that, by the express terms of The Indiana General Not for Profit Corporation Act, churches, religious societies and religious organizations can no longer be organized thereunder.

DEPARTMENT OF PUBLIC WELFARE: Authority of the Governor to transfer an inmate of the Muscatatuck State School to the Indiana Reformatory.

November 4, 1943.

Hon. T. A. Gottschalk, Administrator, Department of Public Welfare, 141 South Meridian Street, Indianapolis, Indiana.

Dear Sir:

This will acknowledge receipt of your letter dated October 28th, 1943, in which you ask my official opinion regarding the following specific question:

"Does the Governor of the State of Indiana have the authority and power to cause the transfer of an inmate of the Muscatatuck State School to the Indiana Reformatory where the Superintendent of the Muscatatuck State School has determined that such inmate is incorrigible and potentially a menace to the welfare and safety of others in the event of escape from the school?"

In 1917 the Legislature of Indiana enacted Chapter 154, Acts 1917, which is Burns' R. S. 1933, Section 22-301. This Act has the following title:

"An act authorizing the transfer of inmates of state institutions to other institutions."
It will thus be observed that the title to Chapter 154, Acts 1917, is a general title and includes the matter of transfer of all inmates in any state institution to any other state institution. Section 1 of Chapter 154, Acts 1917, Burns' R. S. 1933, Section 22-301, reads as follows:

"The governor of the state of Indiana is hereby authorized and empowered to cause the transfer of any ward or inmate of any penal, benevolent, charitable or reformatory institution of said state to any other state institution, at any time, in his discretion, upon petition filed with him by the superintendent or officer in charge of any such institution; provided, such transfer shall not increase any punishment or lengthen the time of servitude of any person so transferred."

In 1923 the Legislature enacted Chapter 154, Acts 1923, which bears the following title:

"An act providing for the transfer of inmates to and from the state institutions for mental defectives, the transfer of inmates of a certain class to the Indiana hospital for insane criminals, providing for the expense of such transfer, and repealing all laws in conflict therewith."

A reading of the language of the title to Chapter 154, Acts 1923, discloses that it is a special and limited act, applicable only to transfers of inmates in state institutions for mental defectives and the transfer of inmates of a certain class in such institutions to the Indiana hospital for insane criminals, and repeals all laws in conflict therewith.

Section 4 of said Chapter 154, Acts 1923, which is Burns' R. S. 1933, Section 22-306, reads as follows:

"An inmate, being a male adult, of a hospital for the insane, the Indiana Village for Epileptics, school for feeble-minded youth (Fort Wayne State School), or the Indiana Colony for Feeble-Minded (Muscatatuck Colony), on account of homicidal and criminalistic habits and tendencies to a degree requiring prison surroundings and protection of life or property, may be transferred to the Indiana Hospital for Insane Crim-
inals at Michigan City by the mutual understanding and consent of the warden and superintendent of the respective institutions, and with the approval of the governor, and not otherwise. Whenever, in the judgment of the physician in charge, an inmate so transferred shall have recovered his sanity, and may properly and safely be permitted to return to his home and place of legal settlement, the physician in charge shall certify the fact to the warden, who shall discharge him as the law provides for the discharge of other recovered inmates of the hospital for insane criminals. The expense of such a transfer to the Indiana Hospital for Insane Criminals shall be paid by the institution making the transfer.”

Section 6 of Chapter 154, Acts 1923, reads as follows:

“All laws and parts of laws in conflict with the provisions of this act are hereby repealed.”

Again in 1936, at its special session, the Legislature enacted Chapter 3, Acts Special Session 1936, which is Burns’ R. S. 1943 Pocket Supplement, Sections 52-1101, et seq.

Section 5 of said Chapter 3, Acts Special Session 1936, as amended by Section 3, Chapter 179, Acts 1941, which is Burns’ 1943 Pocket Supplement, Section 52-1104, defines the powers and duties of the State Department of Public Welfare and in part reads as follows:

“(n) May classify the patients and inmates of the respective institutions of the state and transfer patients and inmates from one state institution to another, at will, when, in its discretion, it is deemed advisable for the welfare of the patient or inmate, but no patient or inmate of a benevolent institution shall be transferred to a penal or correctional institution except in carrying out a previous commitment of a court of competent jurisdiction.”

It is clearly apparent from a reading of the provisions of Sections 22-306 and 52-1104, clause (n) supra, that it is the avowed public policy of the state, as expressed by the Legislature in 1923 and in 1936 and 1941 respectively, that no
inmate in a benevolent institution of the state such as the Indiana Colony for Feeble-Minded (Muscatatuck Colony) shall be transferred from that institution to a penal institution, except a male adult, who develops or has homicidal and criminal characteristics and tendencies to a degree requiring prison surroundings or a protection of life or property, and then only to the Indiana Hospital for Insane Criminals at Michigan City upon the mutual understanding and consent of the warden and superintendent of the respective institutions, and with the approval of the Governor, and not otherwise, or pursuant to a previous commitment of a court of competent jurisdiction.

I am unable to find any statutory authority whereby the Governor of the state is authorized and empowered to cause a transfer of an inmate of the Muscatatuck Colony State School to the Indiana Reformatory, where such inmate is not a male adult, except Section 22-301, supra, enacted as Section 1 of Chapter 154, Acts 1917. It is my opinion that the provisions of Section 22-301, supra, have been so modified or repealed by the subsequent enactment of Sections 22-306 and 52-1104, clause (n) supra, that said section does not apply to any of the state institutions except the penal institutions.

Furthermore, it is a firmly established rule of statutory construction that where there is a conflict between the provisions of a general act such as Chapter 154, Acts 1917, supra, and the provisions of a special act upon the same subject, such as Chapter 154, Acts 1923, the provisions of the special act govern and control in lieu of the provisions of the general act.

Temperly v. City of Indianapolis, 189 Ind. 292 on 298; Kingan etc. v. Ossam, 190 Ind. 554; Daly v. Carr, 206 Ind. 554.

Therefore, it is my opinion that your question must be answered in the negative.