Chapter 64, Section 1, Acts of 1923, which is the council referred to in the quotation next preceding. Accordingly, the Board of Registration for Architects would have no power to adopt and prescribe rules and regulations in connection with the actual construction and alteration of buildings.

It is noted, however, that the Board is specifically authorized to adopt such rules "as may be deemed necessary in the performance of its duty." Its principal purpose is to register architects, to examine and otherwise determine the fitness of applicants for a certificate of registration as an architect and to refuse renewal of certificates and to revoke certificates already granted for statutory cause.

It, then, has the power to adopt any rules and regulations in connection with these duties that it may deem necessary, subject only to the approval of the council as aforesaid. This power is a continuing power vested in the Board. Having the power to make these rules it may thereafter alter, amend, supplement, supersede or repeal them as it may deem necessary in the discharge of its duties.

The answer to your question is then in the affirmative.

STATE SUPERINTENDENT OF PUBLIC INSTRUCTION:
Adoption of text books. Advice concerning.

Dr. Clement T. Malan,
State Superintendent of Public Instruction,
State House,
Indianapolis, Indiana.

Dear Dr. Malan:

We have your request of April 14, 1941, for an opinion relative to the status of the Board of Department of Education after May 1, 1941. In your letter you ask for the following information:

"1. Will the present Board be the legal Board on May 1, 1941?

"2. If I call together the present Board on May 1 to open bids, which are to be received up to 10:00 A. M. on May 1, am I legally entitled to proceed with this
Board in making an adoption of textbooks if our Supreme Court has not returned a decision by that time?

"3. May I legally follow the legislative will, or does the Board hold over until successors are appointed and qualified?

"4. Should a decision not be rendered by May 1, do I have a legal right to assume that we have a State Board of Education and to proceed to do business and let contracts?"

We feel that all of the questions which you raise, as stated above, will be answered by determining whether or not the present Board of Department of Education will be a legal Board on and after May 1, 1941. You, of course, are aware of the official opinion which we addressed to Governor Schricker on March 18, 1941, in which we held that Senate Bill No. 139 was void because it attempted to amend an Act already repealed and, therefore, the attempt to abolish the present State Board of Education by that Act, was a nullity and that the present Board is still in existence. We did not attempt to discuss in that opinion the question of what the status of the present Board would be after May 1, 1941. The status of the Board, after May 1, 1941, may or may not be affected by House Bill No. 12, which purported to repeal Chapter 4 of the Acts of 1933 which provided for the appointment of the present Board of Education. This repeal Act becomes effective as of May 1, 1941.

We think it unfortunate that the Board did not set a date for adoption of textbooks prior to May 1, 1941, as we assumed they would do after you were unofficially advised by this office and others concerned that the adoption should be made prior to May 1 in order to avoid any question as to its legality. It appears, however, that a different course has been taken and the adoption has been set for May 1, 1941.

You are aware, of course, that the question which you ask relative to the status of the Board of the Department of Education is now the subject of litigation. We think it entirely inappropriate for us to attempt, officially, to pass upon a question which, the courts, in pending litigation, have been asked to decide. This office has consistently refrained from passing officially on questions which were the subject of pending liti-
gation. Since the Board has set May 1, 1941, as the time for adoption of textbooks and since it is now too late to set a date prior to May 1, we suggest that you proceed to act on the assumption that the action of the Board will be legal. If any question is subsequently raised relative to the legality of the adoption, it can be settled by litigation.

STATE SUPERINTENDENT OF PUBLIC INSTRUCTION:

Minimum Wage Law. Whether 1941 Act applies to contracts for school year beginning August 1, 1941.

April 21, 1941.

Hon. C. T. Malan, State Supt.,
Public Instruction,
State House,
Indianapolis Indiana.

Dear Sir:

I have before me your letter requesting an official opinion in answer to the following question:

"Could a teacher's contract entered into by teacher and trustee before May 1st be so written as to avoid the minimum wage law of one thousand dollars ($1,000) which will become effective August 1, 1941?"

The minimum wage law to which you refer is Chapter 41 of the Acts of 1941 which amends sections 2 and 3 of Chapter 315 of the Acts of 1935. Chapter 41, supra, did not contain an emergency clause either in its body or preamble, nor did it contain any specifically named effective date, in consequence of which the Act will become effective when published in conformity with the Constitution, which ordinarily will not be later than sometime in May or June, 1941.

The first problem raised by your question is a problem of construction of Section 2 of the 1941 Act which provides as follows:

"All teachers' contracts entered into for the school year beginning August 1, 1935, and ending July 1, 1936, shall be made in accordance with the provisions of section 1 of this act. All teachers' contracts entered into