ernor was to be a member of the State Welfare Board, and was to have the power of appointment of at least two of the members thereof, and by his appointments and the right to cast a deciding vote, he would, in effect, be the State Welfare Board. It follows, therefore, that the provision for appointment of the members by the Lieutenant Governor being invalid, that the rest of the section which is based thereon would be invalid, and that the entire section must, therefore, be governed by the rule that where valid and invalid provisions of an enactment are so connected, one with another, that it is apparent that the legislature would not have passed that section of the act except as a whole, and in such case the entire section must fall. Section 1 of Chapter 179 of the Acts of 1941 is invalid, and of no force and effect, and it will, therefore, leave Section 3 of Chapter 3 of the Acts of 1936 in full force and unchanged, as it was before this later and invalid section was passed.

GROSS INCOME TAX DIVISION: Whether Department can release income tax returns of designated persons to the Treasurer of State.

June 30, 1941.

Mr. G. K. Hewitt, Director,
Gross Income Tax Division,
Department of Treasury,
Indianapolis, Indiana.

Dear Mr. Hewitt:

I have before me your request that an official opinion issue in response to the following inquiry:

"The Treasurer of State has made a demand upon the Gross Income Tax Division to furnish him with certain certified copies of the Gross Income Tax Returns of ten individuals. The Treasurer states that he wishes to use these certified copies for tax purposes, and in conjunction with an investigation which he is conducting under the authority of Senate Enrolled Concurrent Resolution No. 1, which was passed on February 10, 1941.

"Can the writer, as the Director of the Gross Income Tax Division, provide the Treasurer of State with cer-
tified copies of the tax returns of individuals in view of the provisions of Section 24 of Chapter 117 of the Indiana Acts of 1937?"

I must respond to your inquiry in the affirmative. Section 24 of Chapter 117 of the Indiana Acts of 1937 provides:

"Section 24. Unless in accordance with a judicial order, or as herein provided, the Department, its counsel, agent, clerk, stenographers, or other employees, shall not divulge the gross income, or the amount of tax paid by any person, nor any other information disclosed by the report filed under the provisions of this Act, excepting to members and employees of the Department, or to the Governor or to the Attorney General or any other legal representative of the State in any action in respect to the amount of tax due under the provisions of this Act, or to any duly authorized officer of the United States. Any violation of the provisions of this section shall be followed by the dismissal of the offending officer or employee of the State from his office or employment, and in addition, the offender shall be deemed guilty of a misdemeanor, and be subject to a fine of not less than $100.00 nor more than $500.00, and imprisonment for not less than ten days nor more than thirty days in the County Jail."

Section 24, Chapter 117, Indiana Acts of 1937; 11 Burns' Indiana Statutes (Cumulative Supplement) 64-2624; Baldwin's Indiana Statutes 15606.

While it is true that the 82nd Regular Session of the Indiana General Assembly divorced the Treasurer of State from any active authority with respect to the administration and enforcement of the Indiana Gross Income Tax Act, nevertheless it will be noted that Senate Enrolled Concurrent Resolution No. 1, passed February 10, 1941, contemplated that the Treasurer of State might well be named as the ministerial servant of the State with reference to ascertaining whether certain individuals had complied with the Indiana Gross Income Tax Act and paid to the State all of the taxes due from them. A resolution of the General Assembly cannot supersede the provisions of a statute.
However, it should be noted that Section 24 of Chapter 117 of the Acts of 1937 indicates that it is proper to make a disclosure of gross income or the amount of tax paid, or any other information reflected by the reports filed under the provisions of that Act to "any * * * legal representative of the State in any action in respect to the amount of tax due under the provisions of this Act." The Governor of the State of Indiana has, in communications addressed to the Collector of Internal Revenue of the United States of America, designated the Treasurer of State as the person to represent the State in performing the functions of comparing the returns filed under the Indiana Gross Income Tax Act with returns filed under the Federal Net Income Tax Act for the purpose of ascertaining whether any additional tax is due to the State. Therefore, the Treasurer of State in this instance is clothed with the authority conferred upon him by the Governor of Indiana, and, after an examination of the papers filed with the Collector of Internal Revenue by the Chief Executive of this State, I am of the opinion that the Treasurer of State is, for this purpose, a "legal representative of the State" and that his proposed investigation is contemplated by the language "any action in respect to the amount of tax due under the provisions of this Act."

Therefore it will be proper for the Gross Income Tax Division to furnish the Treasurer of State with the certified copies of the Gross Income Tax Returns of the individuals for use in ascertaining the correct amount due from such individuals under the provisions of the Indiana Gross Income Tax Act.

STATE HIGHWAY COMMISSION: Are the State colleges State institutions within the meaning of Chap. 113 of the Acts of 1941?

July 1, 1941.

Hon. James D. Adams, Chairman,

State Highway Commission,

State House Annex,

Indianapolis, Indiana.

Dear Mr. Adams:

I have before me your letter in which you state that you have requests from at least two of the State educational institutions; namely, Indiana University and Ball State Teachers' College,