Moreover, the mere fact that a later law covers the same subject that is dealt with by an earlier law does not of itself mean that the earlier enacted statute is to be succeeded by the later Act.

Schaffer v. State, 202 Ind. 318, 324.

The difference between an interpretation which would allow your Commission to hold a hearing with notices published in two counties instead of one county, is simply a question of the expense of the extra publication and some trouble to see to it that the two publications are made. However, this problem has in it the question of jurisdiction to hear and determine questions often seriously affecting public utilities, motor carriers and railroads and also the public served by them.

My opinion therefore, is that the reasons for the notices in two counties outweigh the reasons for limiting the published notices to the local community where the utility is situated and, that, in any proceeding instituted by or against any public utility, motor carrier or railroad, notices must be published in the county where the utility, motor carrier or railroad has it principal office or place of business, and if the hearing is in some county other than that of the principal office or place of business, notices must also be published in the county where the case is to be heard.

STATE BOARD OF HEALTH: Right of State Board to establish minimum time for reporting the results of blood tests for syphilis.

John W. Ferree, M. D.

Director,
Indiana State Board of Health,
1098 W. Michigan Street,
Indianapolis, Indiana.

Dear Sir:

Your letter of November 17, 1941, requests my official opinion as to the legality of a certain Resolution which was
adopted by the Indiana State Board of Health on June 24, 1941, and which reads as follows:

"Be it resolved that all approved laboratories in the State of Indiana be notified that in order to establish a minimum standard of time for returning the results of Serological examinations for syphilis to applicants or to physicians, that the Board hereby adopts a standard that no such results shall be returned on samples of blood tested until a lapse of twenty-four hours from the time of the receipt of the sample. That violation of this Resolution shall subject the laboratory to the loss of the approval by the State Board of Health."

Chapter 100 of the Acts of 1939 (Burns Statutes of 1933, 1940 Replacement, Sec. 44-213) provides in part concerning blood tests to discover syphilis as a prerequisite to the issuance of marriage licenses as follows:

"(1) * * * Any such blood test shall be performed in the laboratory of the state board of health of the state of Indiana or in a laboratory or laboratories meeting standards prescribed by the pathology department of Indiana University School of Medicine and approved by the Indiana State board of health.

"(3) Each such physician's statement shall be accompanied by a statement from the person in charge of the laboratory making the test, or from any other person authorized by such person to make such statement, setting forth the name of the test, the date it was completed and the name and address of each person whose blood was tested, but not stating the results of the test. The physician's statement and laboratory statement shall be on the same form sheet. Upon a separate form a detailed report of the laboratory test, showing the result of the test, shall be transmitted by the United States mails to the physician, who, after examining it, shall file it with the state board of health, and it shall be held in absolute confidence and shall not be open to public inspection: Provided, That it shall be produced for evidence at any trial or proceeding in any court of competent jurisdiction, involving issues pertaining only to said marriage contract on
an order of the judge of such court requiring its production and shall not be competent as evidence in any trial or proceeding in which said marriage contract is not involved.

“(4) A standard serological test shall be a laboratory test for syphilis approved by the state board of health and shall be performed as provided for in this act. All laboratory specimens for such tests shall be transmitted by such physicians to the laboratories through the United States mail.

“(7) The state board of health is hereby given authority to make rules and regulations for the administration of the provisions of this act as amended and the state board of health in conjunction with the pathology department of the Indiana University School of Medicine is hereby given authority to fix standards and to grant approval to laboratories performing such blood tests and other laboratory tests of a public health nature.”

Your letter states that the foregoing is not “a rule or regulation as is provided in the Act but have made this a Resolution to guide the conduct of the laboratories.”

Although under the general powers of the State Board of Health there is authority to pass resolutions, yet the authority of said board over these laboratories is granted in the foregoing statute which does not provide for any resolutions.

It is my opinion that the resolution is of no effect as it does not comply with the legislative requirement. Only rules and regulations properly promulgated would be binding upon the laboratories under this statute.

Your letter further states:

“We felt that it was the intent of the Legislature to establish a waiting period so that the so-called ‘rush marriages’ might be eliminated.”

The intention of the legislature must be determined by what it said in the act. The principal purpose of the Act appears to be the prevention of communication of the disease of syphilis.

Your letter further states that certain of the laboratories
were using Special Delivery Service. The legislature, in specifying the use of the United States mails, intended to authorize the use of such services as the Post Office may offer, and hence the doctors and laboratories have the right to use all such services including Special Delivery service.

As I pointed out that the resolution is of no effect as it does not comply with the legislature’s requirements, I am of the opinion that the resolution is inappropriate and should be repealed.

ALCOHOLIC BEVERAGES COMMISSION: Whether excise police are required to turn over to sheriff’s beverages or related articles seized under a search warrant issued by authority of the Alcoholic Beverages Act.

November 19, 1941.

Mr. Ralph Howard,
Chief, Enforcement Division,
Alcoholic Beverages Division,
131 State House,
Indianapolis, Indiana.

Dear Mr. Howard:

This will acknowledge your letter of October 25, 1941, wherein you ask the question:

“Whether the 1941 amendment would require excise police to turn over to the sheriff of the county alcoholic beverages or related articles or equipment seized under a search warrant issued by authority of the Alcoholic Beverages Act.”

Section 12-402, Burns’ Indiana Statutes Annotated, 1933 (1941 Supplement), Sub-section 7 thereof, provides:

“(7) To examine, inspect and search any and all premises where alcoholic beverages, malt syrup, malt extract, liquid malt or wort are manufactured or made or handled or possessed elsewhere than in one’s own home or sold or bartered or given away or furnished, or in which the same are being transported or delivered; and also, to seize, or cause to be seized any of such beverages or malt articles, or any other article,