OFFICIAL OPINION NO. 11

February 5, 1946.

Mr. Mark Honeywell, Chairman,
State Office Building Commission,
3435 North Pennsylvania Street,
Indianapolis 5, Indiana.

Dear Sir:

I have a letter of Mr. Albert B. Thompson, member of the Commission, dated January 4, and of Mrs. Nellie B. Downey, Secretary of the Commission, dated January 23, 1946. Both of these letters make inquiry concerning the powers and duties of the State Office Building Commission.

In describing the general powers and duties of the Commission it is impossible of course to be completely exhaustive but I will attempt to make a general outline of your statutory powers and duties and if there is any further question, would be glad to amplify it at a later date.

Being an administrative board created by statute, of course the powers of the board are limited by the express delegation in the statute. Necessarily, also, the extent of your activity is limited by the amount of money appropriated in the Act.

The State Office Building Commission is created by Chapter 337, page 1584 of the Acts of 1945. That Act in Section 1 reveals the following:

"* * * The duties of said commission shall be to investigate the advisability and the necessity for the erection of an office building or buildings, to be erected by the State of Indiana, to house the various offices and departments of the state government; * * *"

In executing the duties imposed in the clause I am of the opinion that you may:

1. Obtain a list of the present offices, departments, boards, bureaus and commissions in Indiana state government.

2. Analyze the space and physical requirements of each state agency.
38

(3) Investigate the interrelationship of any offices, boards, bureaus or commissions to determine locations with respect to each other.

(4) Investigate the necessity for retention of certain offices in the state capitol building itself or in present state owned or leased buildings.

(5) Make recommendations as to what offices might be placed in a state office building.

(6) Since the size and arrangement of a state office building will necessarily depend upon the needs both present and future of the various agencies of state government which cannot be adequately accommodated in the capitol building, I am of the opinion that you may consider how the capitol building itself may be most advantageously used before making recommendations as to the office building itself. A consideration of the advantages of the present state capitol building may entail re-arrangement of present offices within the accommodations now afforded by the capitol building. I do not believe that your powers extend to recommendations for remodelling or improving the present capitol building.

"* * * to investigate available and appropriate sites upon which to erect such building or buildings; * * *

(7) The power here delegated is fairly clear. You may investigate and recommend an appropriate site or sites for a state office building but such power clearly does not include the right to take an option or options upon any particular site.

"* * * to study and investigate methods of procuring architectural services for the preparation of plans and specifications for the erection of such office building or buildings; * * *

(8) While this does not empower your Commission to employ an architect for the purpose of drawing plans and specifications for a state office building, it does not mean that you must forego all architectural assistance, Section 2 of the Act provides that you may employ such technical and professional assistance as may be necessary to properly carry
out your duties, providing the cost of such services does not exceed the total appropriation. I am therefore of the opinion that if you desire architectural advice, both as to a type of building and as to the best method of procuring architectural services for planning the building itself, you may do so. Your recommendations may even include preliminary sketches. The same would apply to engineering or any other technical advice you may desire.

"* * * to make a report to the governor and to the regular session of the Eighty-fifth General Assembly of Indiana, in which report shall be included recommendations concerning the matters under investigation. Such report shall be filed with the governor not later than December 1, 1946, and shall be signed by all members of the commission."

There should be no difficulty in interpreting the requirements of that clause of the Act.

It occurs to me that the purpose of Chapter 337 was to provide a commission which would investigate and recommend adequate housing for the present and future needs of state government. It should be remembered that the report of the Commission is merely advisory to the Legislature and in order that the Legislature obtain a comprehensive picture of the needs, the Commission will have to consider all existing state agencies. Whether any agency will then be permitted to furnish its own office facilities is a matter for legislative determination. Consequently, you need not be particularly concerned with the question whether any existing agency is empowered to construct office buildings.