rules as you may provide, and these conditions should be taken into account by your commission when you are called on to approve any transfer of a dancing permit.

ALCOHOLIC BEVERAGE COMMISSION: Authority of commission with reference to spending special enforcement appropriation.

June 3, 1941.

Mr. Hugh A. Barnhart,
Chairman, Alcoholic Beverage Commission,
State House,
Indianapolis, Indiana.

Dear Sir:

I have your letter of May 14, 1941, asking an official opinion with respect to the powers of the Alcoholic Beverage Commission, especially in regard to the expenditure of such monies as are at its disposal. Summarizing your letter briefly, you ask:

"1. Since the Commission is now supported entirely by special enforcement and administrative taxes flowing into a fund earmarked for the Commission's exclusive use, what other laws applicable to all public funds will affect the expenditures of the Commission?

"2. The Commission, through its Excise Administrator, has in the past purchased equipment, printing, etc., through the Printing Board or the Central Purchasing Agent. Since under the Stout Act the entire Commission is responsible for all purchases, must the Commission make purchases in the same manner as in the past, or does it have the right to buy from whatever source it sees fit and whatever equipment it deems necessary for the administration of the Act?

"3. To what extent must the Commission submit to the control of the Budget Committee or secure its approval in administering and enforcing the 1941 Stout Act?"

Under Section 48 of Chapter 237 of the Acts of 1941, (the so-called Stout Act), a special enforcement tax is provided.
This tax is imposed directly upon manufacturers and wholesalers of alcoholic beverages and is to be paid directly to the Alcoholic Beverage Commission and is to constitute a separate and distinct enforcement and administration fund of the Commission. It is further provided that this fund so appropriated, is to be used and disbursed solely for the enforcement and administration of this Act and that unexpended balances at the end of any fiscal year, shall not revert to the General Fund or lapse but remain appropriated and available to the exclusive use of the Commission for the purposes hereinabove mentioned. It should be pointed out that this enforcement tax is in addition to the taxes and license fees, denominated excise taxes, and provided for in Section 40 of this Act, the proceeds of which are paid into the General Fund and thereafter distributed to governmental units.

There are only two references to the Budget Committee in this Act. Under Section 5, it is provided that each member of the Commission shall be paid an annual salary not to exceed $6,000.00 to be fixed by the Governor, subject to the approval of the Budget Committee. And under subsection 1 of Section 6, it is provided that the Commission may appoint deputies, assistants, employees and may, subject to the approval of the Budget Committee, fix their salaries or remuneration.

In view of the fact that the monies appropriated to the Commission for the enforcement and administration of this Act are not appropriated from the General Fund with designated amounts set by the Budget Committee for divers kinds or classifications of expenditures, it would appear that there can be no inference drawn of budgetary control by the Budget Committee from the language or direction of any general appropriation act and, as I have noted above, the Budget Committee is mentioned only twice in the Act and in both instances, is given specific authority to approve salaries. Under the well established legal principle that the expression of one thing excludes the other, it is fair to assume that by giving the Budget Committee only two specific grants of authority in this Act, the Legislature intended that that should be the limit of the powers to be exercised by the Budget Committee, and excluded by omission any grant of general or plenary authority. Therefore, the answer to your third question is that the Commission has full discretion to decide how much money shall be expended for a certain purpose and, as a corollary,
the widest discretion to decide what purposes are appropriate, so long as such expenditures are germane to and connected with the administration and enforcement of this Act.

In view of my answer to your third question, it is my opinion that the Commission has the fullest control over the expenditures mentioned in the first question but this does not apply in any sense to the method of making any such expenditures.

The machinery of making expenditures brings me to your second question. Your letter refers specifically to the practice of making purchases through the Central Purchasing Bureau and the Board of Public Printing. While it is true that the Stout Act places responsibility in the entire Commission for purchases, yet the general and all-embracing language of the laws surrounding purchases through the Board of Public Printing or through the Central Purchasing Bureau, cannot be ignored. As an example, I call your attention to Chapter 39 of the Acts of 1941, which is an amendment to the 1933 law creating a Central Purchasing Bureau. Disregarding the current court test with respect to the constitutionality of Section 2 of this Act, Section 4 is unquestionably valid and is effective law as of this date. This section provides among other things that:

"The state purchasing agent shall have power and it shall be his duty to act as purchasing agent for all state offices, departments, commissions, boards, bureaus and state institutions in the purchase of supplies, materials, furniture, furnishings and office equipment. * * * He shall advise and give such other aid and assistance as may be required in the making of all other purchases. * * * This act shall not apply to * * * State Highway Commission, Purdue University * * * Supreme and Appellate Courts, and to the purchases which are provided by the state printing law."

(Our italics.)

It is apparent that the Legislature intended that all departmental purchases should be made through the State Purchasing Agent and I am further fortified in my conclusion that the Alcoholic Beverage Commission comes under the Central Purchasing Bureau by the fact that the Legislature carefully excluded those agencies of the State Government to which they
did not intend the Act to apply and among which the Alcoholic Beverage Commission is not to be found.

Summarizing, it is my opinion that the Commission has complete discretion and plenary authority to decide how much and for what purpose monies shall be spent in the case of the special appropriations accruing to the Commission by enforcement tax collections and set aside in the excise fund; however, once the Commission has authorized an expenditure either for equipment or for printing supplies, its expenditures must be made in the first instance through the Central Purchasing Bureau, and in the second instance, through the Board of Public Printing. It is scarcely necessary to add that the State Examiner and the State Board of Accounts will continue to have authority to make post audits of the Commission's accounts, an accounting, which, it seems to me, is not only required by statute but advisable in the best interests of the Alcoholic Beverage Commission.

UNEMPLOYMENT COMPENSATION DIVISION: Authority of board to enter into new and extension of old lease agreements for the purpose of quartering various employment offices.

June 3, 1941.

Honorable Wilfred Jessup,
Director Unemployment Compensation Division,
Department of Treasury,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter of May 7, 1941, requesting an official opinion as to the authority of the Employment Security Board in leasing property to house the various state employment offices.

Section 20 of Chapter 4 of the Acts of the Special Session of the General Assembly of 1936, as amended by Chapter 227 of the Acts of the General Assembly of 1941 provides as follows:

"Appropriation. All money received from the United States government and paid into the state treasury, as hereinbefore provided in this act, is hereby appro-