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not comply with the legislature's requirements, I am of the opinion that the resolution is inappropriate and should be repealed.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,
or containers, or property where such seizure is lawful under the provisions of this act; or to cause any of said things to be done, or proceedings to be taken by a deputy or deputies, assistants, employees or appointees of the commission having police powers.”

This provision then gives the excise administrator the power to seize or cause to be seized any of the articles mentioned in the above sub-section.

Section 12-701, Burns’ Indiana Statutes Annotated, 1933 (1941 Supplement), makes provision for the issuance of a search warrant to any officer, agent or employee of the commission when a affidavit for such warrant is made by said officer, agent or employee and provides further, that, if the affidavit for the warrant is made by any other person, the warrant shall be directed to any officer having power to serve criminal process.

Section 12-702, Burns’ Indiana Statutes Annotated, 1933 (1941 Supplement), reads as follows:

“Seized property—Custody pending proceedings.—Liquor seized as herein provided and the vessels containing it and such fixtures and articles or other apparatus, stamps, papers, documents or licenses which may be found on said premises and relating in any wise to the use or operation of said liquor and/or still or distilling apparatus, taken under said warrant shall not be taken from the custody of the officer, agent or employee of said commission or said excise administrator or other officer by a writ of replevin or other process while the proceedings provided herein are pending, and final judgment of conviction in such proceeding shall be a bar in all cases to any and all suits for recovery of any liquor and/or other articles or things seized or the value of the same or damages alleged to arise by reason of the seizing and detention thereof. (Acts 1935, ch. 226, Sec. 34, p. 1056.)”

The manner in which contraband property is disposed of is fully covered by the provisions of Section 12-711, Burns’ Indiana Statutes Annotated, 1933 (1941 Supplement). The pertinent provision in this section reads as follows:
“All such articles ordered sold by any court shall be sold by the excise administrator at public auction in any county in which he may deem it most advantageous to sell the same, after one (1) week’s notice of sale by publication in a newspaper of general circulation, published in the county seat of the county in which said sale shall be made. Sales of any such articles which have a commercial value and which may be lawfully purchased, may be sold to any person, firm or corporation lawfully entitled to buy the same and the proceeds of such sale, after deducting necessary costs and charges, including fees for publication, and payment of liens, shall be paid over by the said excise administrator as by this act is provided for the payment of taxes and license fees. (Acts 1935, ch. 226, Sec. 39, p. 1056; 1937, ch. 197, Sec. 10, p. 931.)

Section 9-604, Burns’ Indiana Statutes Annotated, 1933 (1941 Supplement), which was amended in 1941, provides that when property is seized under a search warrant the property or things shall be safely delivered by the officer seizing the same, if he be other than the sheriff of the county, to the sheriff of the county. This original act appeared in the Acts of 1905 under the general act entitled “An Act concerning public offenses.” This is the proper procedure to follow only in cases where there is no specific act for particular seizures.

It is my opinion and conclusion that when property is seized by a warrant upon an affidavit made by the excise administrator, or by any officer, agent or other employee of the Alcoholic Beverages Commission, that the property seized under such warrant should remain in the custody of the officer, agent or employee of said commission or said excise administrator until a final disposition is made by the proper court having jurisdiction over the owner of the seized property.

The excise administrator is the proper person to dispose of any property seized when the property is ordered sold by any court.