counts and possible harm may have been done one Otto F. Schlensker, a citizen of this State; therefore,

"SECTION 1. Be it resolved that we, the General Assembly, Recommend and pray a nonpartisan committee consisting of two (2) members be named by the speaker of the House, and two (2) by the president of the Senate for the purpose of ascertaining through their deliberations and investigations the merits of the controversy that has arisen and we, as members of our General Assembly, extend to said committee such power and authority as may be necessary in ascertaining the facts under and by virtue of our statutes and it shall be the duty of the committee to set out, in full, their findings, typewritten, with definite instructions to our representative bodies recommending the action they deem necessary to clarify the records and rectify any misunderstanding, mistake or error."


The above resolution apparently contemplates that the findings and recommendations referred to therein are to be reported to the House of Representatives and to the Senate, and accordingly I am of the opinion that this report does not go to the governor and contains no authority whereby the governor may take any particular action in the matter.

Your first question is answered in the negative. Your second question does not admit of a categorical answer, but is answered as already indicated that the governor has no duty to perform with respect to such report.

UNEMPLOYMENT RELIEF, GOVERNOR'S COMMISSION ON: Authority to finance operations and services necessary to qualify for WPA funds, surplus commodity distribution, etc., from original appropriation of 1933 General Assembly.

Hon. Dudley A. Smith, Director, Governor's Commission on Unemployment Relief, Indianapolis, Indiana.

December 30, 1939.

Dear Sir:

I have before me your letter of December 26, 1939, which in part reads as follows:
“Certain opinions heretofore have been rendered by you in regard to appropriations made to the Governor's Commission on Unemployment Relief by the Act of 1933, the same being the Act which created the commission. These opinions, dated September 9, 1938, and October 7, 1938, and rendered to the Auditor of State, give your finding that the original appropriations are continuing and are still available for emergency use by the commission upon proper commission finding of the emergency and the necessity for their use. The later opinion holds that operations sponsored by the commission in the distribution of surplus commodities to needy persons of the state and other operations on the making of referral and certifications of needy persons for employment on WPA 'are essential to the administration of the relief program.' It further finds that the Governor's Commission, with approval of the Governor, has authority to authorize the expenditure of the monies so appropriated for the purposes of continuing these essential relief services. The October 7 opinion therefore concludes that money from the original appropriation might be, and it was, appropriated to the State Department of Public Welfare for the performance of these services and others incidental to the carrying out of the duties of the G. C. U. R. Whereas a sum of $2,000,000 originally was appropriated to the commission, 'for the purpose of furnishing financial and other relief to the needy and distressed people having legal settlement in this state and for the purpose of relieving the hardships resulting from unemployment in this State', the sum of $20,000 was appropriated annually for the administrative expense of the Commission.”

Upon the basis of the statements above set out you request an official opinion in answer to the following questions:

1. Can the Governor’s Commission, for the purpose of relieving hardships resulting from unemployment, with approval of the Governor and by findings properly made on the emergency and the necessity therefor, use necessary parts of the $2,000,000 appropriation given to it by the General Assembly of 1933, for the purpose of continuing under its director and under contracts
with agencies, such services and investigating operations as are required of the State by agreements heretofore entered into with the State Administrator of WPA, which services have been operated for nearly six years with other funds heretofore made available from other sources, but which are now exhausted?

"2. Can the Governor’s Commission, in like manner use necessary funds drawn from the emergency appropriation in a method approved by the Governor upon warrants signed by its Director and drawn upon the Auditor of State for the purpose of continuing, certifying, distributing and other functions as required by law and agreements in the distribution of surplus commodities given to the State by the Federal Surplus Commodity Corporation and other agencies having financial or other relief benefits to be distributed to the needy and distressed people of the State?

"3. Can the administrative expenses of the Commission, such as the salary of the Secretary, Director and the expenses of his office and the actual expenses of Commissioners, be met with funds appropriated by emergency action and finding of necessity by the Commission?"

In connection with your letter you submit for consideration the Resolution by the Governor’s Commission on Unemployment Relief, adopted on December 27, 1939, and approved by the Governor on said date. This Resolution further amplifies the statements of need and the plan for the use of portions of the unexpended balance of the appropriation referred to in your letter.

Two sections of the statute in particular are involved in arriving at the solution of your problem and the answer to your questions. Section 52-804 of Burns Indiana Statutes Annotated (1933) makes an appropriation to the Governor’s Commission on Unemployment Relief of the sum of one million dollars or so much thereof as may be necessary in the discretion of the Governor, which appropriation is made available after the fifteenth day of March, 1933. The section also provides that a like sum or so much thereof as may be necessary in the discretion of the Governor is appropriated for the same purpose for the fiscal year beginning July 1, 1933. It is then provided that the appropriations:
“shall continue to be available until expended and no part of the same shall revert to the general fund until the purposes herein set out have been accomplished; Provided, however, That none of the appropriation made hereby shall be expended except upon the finding and determination of the commission on unemployment relief that an emergency exists for such expenditure.”

The purpose of this appropriation is stated in the section to be:

“furnishing financial and other relief to the needy and distressed people having a legal settlement in this state, and for the purpose of relieving the hardships resulting from unemployment in this state.”

The other section which is necessarily involved in the discussion of your questions is Section 52-805 of Burns Indiana Statutes Annotated (1933), which provides that:

“For the purpose of carrying out and administering the provisions of this act, there is hereby appropriated out of any money in the general fund of the state treasury not otherwise appropriated, the sum of twenty thousand dollars ($20,000), annually, or so much thereof as may be necessary.”

The above section is a part of the same Act as contains Section 52-804, supra. It is evident, therefore, from the above provisions that the legislature made a distinction between the use of the appropriation which was stated to be for “carrying out and administering the provisions of this act,” and the larger appropriation made “for the purpose of furnishing financial and other relief to the needy and distressed people having a legal settlement in this State, and for the purpose of relieving the hardships resulting from unemployment in this State,” and from a consideration of the two sections I think it is obvious that your third question must be answered in the negative. The expenses referred to therein clearly are administration expenses and are not payable out of the appropriation made by Section 52-804, supra.

Your first and second questions, however, require a more careful analysis. In an opinion rendered to the Auditor of State on October 7, 1938, I had before me a similar question in which opinion I held that the appropriation provided in Section
52-804, *supra*, is available to pay the expense of maintaining a certifying agency to determine relief needs, as one of the requirements in allocating funds to the State from the Works Progress Administration of the United States and other similar programs. I adhere to that opinion.

It appears to me that the language of the appropriation leaves the particular method to be employed in supplying the relief undetermined. In other words, the legislature could not foresee just what turn the affairs might take in the supplying of the relief for which the State was to assume the financial responsibility. Since that time the Federal Government has furnished to the State for the relief of unemployed and for the relief of needy people vast sums of money many times in excess of this particular appropriation by the State.

It is my understanding from the information furnished me that the Federal Government makes it a condition to the further extension of this relief the rendering of certain services described in your questions 1 and 2. These services obviously are not necessary to the administration of the State Act, but they are necessary, as I understand it, in order to make available to the State from Federal funds and surplus commodities amounts many times in excess of the appropriation made by Section 52-804, *supra*. Upon that basis it seems to me that there is no diversion of the appropriation made by said section to purposes other than those intended by the use of the same, as referred to in your questions 1 and 2. I think upon that basis your questions 1 and 2 should be answered in the affirmative.