name of the Johnson Grass Study Committee. The money would be paid to the State Treasurer for the State of Indiana, to be then paid over to Purdue for further johnson grass control research. You have expressed your doubts as to the validity of such an arrangement. I agree that to permit private corporations or individuals to solicit and collect gifts to the State of Indiana in the name of a legislative committee is illegal and fraught with danger. Further, if the gifts are made to the Committee or to the State of Indiana, and become public funds of the state, they could not be expended without an appropriation.

Purdue University has been authorized to accept gifts for purposes specified by the donors, Acts 1931, ch. 139, Burns §§ 28-5712 to 28-5715. The Purdue Research Foundation can also receive and administer gifts for a specified research project for Purdue. In my opinion, the wise procedure to follow would be for anyone interested in solving the johnson grass problem through further Purdue research, to encourage (but not collect) gifts directly to Purdue University or the Purdue Research Foundation for the purpose of controlling and eradicating johnson grass in Indiana.

OFFICIAL OPINION NO. 53
December 5, 1968

PUBLIC PROPERTY—Transfer of used and surplus personal property and equipment between governmental subdivisions or agencies.

Opinion Requested by Mr. John T. Hatchett, Commissioner, Department of Administration.

I am in receipt of your inquiry asking the following question:

"We are receiving requests from other units of government for the sale or transfer of such equipment as used
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State Police vehicles and used Highway equipment that have been declared surplus by these agencies. Does Chapter 176, Acts of 1967 allow us to transfer equipment to other units of government?"

Acts 1967, ch. 176, amended the title and two sections of an earlier act, Acts 1961, ch. 173, the same being Burns IND. STAT. ANN. §§ 48-8039 through 48-8041. Those two sections as originally enacted in 1951 read:

“SECTION 1. Authority is hereby granted to the various departments, agencies and units of municipal government to contract for specific services with other departments, agencies and units of municipal or state government within the State of Indiana.

“SEC. 2. Any contract negotiated and executed pursuant to the provisions of section 1 of this act, shall be negotiated and executed in conformance with all applicable laws, rules and regulations governing such transactions.”

The same two sections, as amended by Acts 1967, ch. 176, now read:

“SECTION 1. Authority is hereby granted to the various departments, agencies and units of municipal, county and state government to contract with other units of municipal, county or state government within the State of Indiana, for specific services or to sell to or purchase from such subdivision or subdivisions, to contract for the purchase of materials, supplies and equipment for the use of any other subdivision of municipal, county, or state government within the State of Indiana.

SEC. 2. Any contract negotiated and executed pursuant to the provisions of section 1 of this act shall be negotiated in conformance with all applicable laws, rules and regulations governing such contracts: Provided, that when contracts are negotiated between municipal, county or state agencies or subdivisions thereof, no notice by publication or posting of notice shall be required. Nothing in this act shall be construed to avoid such publication or posting of notice by
any municipal, county or state agency, as required by law, when such purchase or contract for services is to be made from or with a non-governmental agency."

Without engaging in a rigorous and formal application of the principles of statutory construction, it appears to me that the statutes above do not authorize the type of transaction contemplated in your question. The statutes appear to be concerned with a relationship between two governmental units that will continue for some specific length of time, whereas your question is concerned with a single, almost instantaneous, transaction. The statutes seem to concern a long range program of intergovernmental cooperation rather than the sale of a single item from one governmental unit to another. To illustrate, the statutes above might well authorize a contract between Marion County and the Department of Administration whereby Marion County agrees to purchase for county use all State Police vehicles declared surplus in the next three years at a given price provided said vehicles meet certain specifications. However, the statutes would not appear to authorize the sale of a State Police vehicle that has been declared surplus to a governmental unit in a single transaction completed upon consummation of that sale. This feeling in relation to the above statutes is supported by the third section of the 1961 Act, Burns § 48-8041, which was not amended in 1967, and which provides:

"SEC. 3. Such contracts may be negotiated and executed when it appears that local governmental services may be provided more economically and efficiently by the provisions of such contracts."

The words "economically and efficiently" would connote a permanent or semipermanent arrangement rather than a single transitory transaction.

The basic reason for not subjecting Chapter 176 of the Acts of 1961 to formal statutory construction at this time is that the Department of Administration already has the authority to sell or transfer surplus equipment to local governmental units. The Department of Administration has all the powers granted to the now defunct Division of Public Works and Sup-

“(8) To sell or transfer to or between state agencies or to any subdivision of the state or agency thereof, any supplies, materials or equipment which are surplus, obsolete or unused: Provided, That such acquiring agency or subdivision shall pay all cost of transportation or other expense involved in the sale or transfer; or to sell such supplies, materials or equipment to outside purchasers in the manner hereinafter provided; or if advantageous to exchange or trade in the same toward the purchase of other supplies, materials or equipment, and to make and authorize in all cases proper adjustments in the accounts and inventory pertaining to the state agencies concerned.” (Emphasis added.)

The emphasized portions of the statute above were added by the 1961 amendment.

Prior to the 1961 amendment of the statute above, local governmental units were “outside purchasers” who could purchase surplus property from the State only by engaging in the competitive bidding procedure described by section 12 of the Act, Burns § 60-1812, while an agency of the State did not have to submit a competitive bid to acquire surplus property from another State agency. The 1961 amendment gave subdivisions of the State, including local governmental units, the same privileges previously granted only to agencies of the State.

Therefore, it is my opinion that Chapter 176, Acts 1967, does not authorize the Department of Administration to sell or transfer individual items of surplus state-owned property to local municipal units, but the department does possess that authority by virtue of Acts 1947, ch. 279, § 5, as amended by Acts 1961, ch. 83, § 1.