It is to be noted that under section 51 of the Welfare Act of 1936, the State Department shall specify the sum to which the United States government shall be entitled which in every case shall be fifty per cent of the net amount collected by reason of old age assistance, exclusive of funeral expenses, granted under the provisions of Article I, Part III of this act, and Title I of the Federal Social Security Act. The amount due the United States shall be paid promptly from the old age assistance account of the general fund of the state treasury to the United States government, upon the order of the state department and the audit and warrant of the auditor of state. No provision, however, was made for the payment to the United States treasury of its share of recoveries in connection with assistance paid to the blind and dependent children in custody of relatives.

Nevertheless, in my opinion the Federal Government is entitled to its share of collections made with respect to blind assistance and aid to dependent children payments, prior to and after the Social Security Act Amendment of 1939. The State and Federal Government are now and have been in a joint enterprise and any benefits that flow to one flow to the other. The State is not only morally, but is equitably bound to give to the Federal Government its pro rata share of any benefits received under the joint enterprise.

Therefore, all three of the questions presented are answered in the affirmative.

Accounts, State Board of: Members of Board of County Commissioners not entitled to mileage for attending Road School.

April 12, 1940.

Hon. E. P. Brennan, State Examiner,
State Board of Accounts,
State House,
Indianapolis, Indiana.

My Dear Mr. Brennan:

I have your letter of April 10, 1940, in which you ask for an official opinion on the following question:
"Are members of the Board of County Commissioners legally entitled to be reimbursed from county funds for mileage and other expense incurred in attending the Road School held annually at Purdue University?"

Section 49-1013 of Burns' Indiana Statutes Annotated (1933), provides that in addition to the salary provided in Chapter 21 of the Acts of 1933, each County Commissioner shall be entitled to 6c per mile for the miles necessarily traveled in the conduct of the business of their respective counties; it being provided that no more than one mileage shall be charged for one conveyance, and that no mileage is to be paid for trips between the home of the Commissioner and the Court House. This mileage charge, of course, applies only where the county does not furnish the transportation.

Section 49-3323 of Burns' Indiana Statutes Annotated, (1933) makes it the duty of the County Surveyor or the County Engineer of every county to attend all sessions of the annual road school conducted at Purdue University during each and every year of his incumbency. The Section further provides that the expense of the County Surveyor or County Engineer, including the actual expense of transportation to and from the school together with the expense of lodging and tuition shall be paid from the general fund of the County.

I know of no statute which expressly makes it the duty of a member of the Board of Commissioners to attend this school and I feel quite sure that there is no express authority in the statutes for the allowance of 6c per mile mileage to a member of the Board on account of his attendance at the school, unless it can be held that such mileage allowance, is "for the miles necessarily traveled in the conduct of the business" of the county.

I do not think that the attendance by a Commissioner of the road school at Purdue University is county business, especially in view of the fact that in providing that the County Surveyor or Engineer must attend the school, no reference is made to a member of the Board of County Commissioners. In other words, the inclusion expressly of the above named officers ordinarily would appear as an exclusion of all others so far as the duty is concerned. It seems to me too that, in the use of the language "conduct of the business of their respective coun-
ties” reference is had to the duties performed in the way of business for the counties which they represent rather than an educational process whereby any given commissioner may be better fitted to render the service but which, after all, is not the rendering of the service itself. It is not because of the fact that the County Surveyor or County Engineer is rendering a service to the County in attending the road school but that the County is supposed to get an indirect benefit by reason of an increased efficiency of the officer which justifies the expenditure which the statute allows. But, there is no such allowance made for the County Commissioners for the taking of a special training in order to enable them to better represent the County.

It seems to me that the attendance by the members of the Board of Commissioners of the road school at Purdue University is not the business of the County. The question asked is answered in the negative.

HIGHWAY COMMISSION, STATE: Construction of levee on land condemned for such purpose may be commenced prior to payment of compensation for such land.

April 15, 1940.

Hon. M. R. Keefe, Chief Engineer,
State Highway Commission of Indiana,
State House Annex,
Indianapolis, Indiana.

Dear Mr. Keefe:

I have your letter of April 10th, in which you state:

“The State Highway Commission of Indiana would most respectfully ask your official opinion on the following question and statement of facts:

“The War Department is proposing to let a contract for the construction of Levee Unit No. 8 West Fork of White River, Daviess County, Indiana.

“This levee crosses State Highway No. 57 and various other improved highways in Daviess County, Indiana, and is to be constructed upon tracts of lands