"Where a school fund mortgage is in arrears as to interest and the mortgagee is able to obtain a government home loan, can the county accept the home loan bonds as payment of the loan?"

The "county" in such case must of course act by some duly authorized officer, whose authority is limited by statute. In other words, public officers of a county have no implied powers, except such as are necessary to carry out their express powers. I do not find any express authority in any county officer which would authorize the acceptance by him of bonds issued by the Home Owners Loan Corporation in payment of a school fund mortgage. In my opinion, no such authority exists under the present statutes.

GOVERNOR: Construction of sewers by cities

December 15, 1933.

Hon. Paul V. McNutt,
Governor of the State of Indiana,
State House,
Indianapolis, Indiana.

My dear Governor:

I have before me your letter of December 13, 1933, in which you ask the construction of section 1, chapter 61 of the Acts of 1932, special session, found on pages 209 and 210 of the acts, which reads as follows:

"Be it enacted by the general assembly of the State of Indiana, That every city and town in the State of Indiana is hereby authorized and empowered to own, acquire, construct, equip, operate and maintain within and/or without the corporate limits of such city or town, a sewage treatment plant or plants, intercepting sewers, outfall sewers, force mains, pumping stations, ejector stations and all other appurtenances necessary or useful and convenient for the treatment, purification and disposal, in a sanitary manner, of the liquid and solid waste, sewage, night soil and industrial waste of such city or town, and shall have authority to acquire by gift, grant, purchase, condemnation, or otherwise, all necessary lands, rights of way and property
therefor, within and/or without the corporate limits of such city or town, and to issue revenue bonds to pay the cost of such works and property. The term 'works,' where hereinafter used in this act, shall be construed to mean and include such structures and property. No obligation shall be incurred by the municipality in such construction or acquisition except such as is payable solely from the funds provided under the authority of this act.”

The particular question you submit, is whether or not this section of the statute will permit a town or city to construct local and lateral sewers under its provisions.

The courts have held that when the language of a statute is clear and unambiguous, there is no room for construction and the language used must be held to mean what it plainly expresses.

Applying this rule to the question before me, the statute seems to be clear and unambiguous in its terms. The statute provides that the town or city may build a sewage treatment plant or plants, intercepting sewers, outfall sewers, force mains, pumping stations, ejector stations, and all other appurtenances necessary or useful and convenient for the treatment, purification and disposal in a sanitary manner of the liquid and solid waste, sewage, night soil and industrial waste of such city or town, and nowhere in the provisions of the statute are the local or lateral sewers provided for.

Therefore, I would hold that the legislature intended to leave such sewers out of the statute. It occurs to me that the legislature intended that this statute cover local and lateral sewers, that it would have said so.

It is my opinion that this statute does not contemplate the construction of local and lateral sewers.