Assembly; and, if the same shall be agreed to by a majority of the members elected to each of the two Houses, such proposed amendment or amendments shall, with the yeas and nays thereon, be entered on their journals, and referred to the General Assembly to be chosen at the next general election; and if, in the General Assembly so next chosen, such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each House, then it shall be the duty of the General Assembly to submit such amendment or amendments to the electors of the State; and if a majority of said electors shall ratify the same, such amendment or amendments shall become a part of this Constitution.” (Our italics).

A former Attorney General in construing the italicized language supra has held that the same contemplates some act of the General Assembly either by resolution or otherwise submitting the proposed amendment to the electors which is lacking in this case. Opinions of Attorney General 1929-1930 page 143. I concur in that opinion to which you are referred for an elaboration of the reasons supporting it. Your question is answered in the negative.

HIGHWAY COMMISSION, STATE: Authority of county to grant right of way for highway through land of Calvin A. Bronnenberg Orphan’s Home.

January 27, 1936.

Hon. James D. Adams,
Chairman, State Highway Commission of Indiana,
State House Annex,
Indianapolis, Indiana.

Dear Sir:

This is in response to your request for an opinion as to the meaning of a certain will. The material facts are as follows: Calvin A. Bronnenberg devised his farm of 256 acres in Madison County, Indiana, to the Board of Commissioners of that county for an orphan’s home, subject to a life estate to his sister. The sister is now deceased. The Commissioners accepted the property for an orphan’s home and have im-
proved and equipped the place and are maintaining it as an orphan’s home, all in strict accordance with the terms of the will.

There is a clause in the will as follows:

"ITEM 6. In the event the Board of Commissioners of said Madison County shall fail to accept the devise set out in Item (4) of this will or in the event said lands shall at any time thereafter revert for any reason, then in either such events," * * *.

The will then goes on and provides for another disposition of the property in the event of a reversion. It is not entirely clear what the testator had in mind by "revert." Nothing is referred to except a failure of the Commissioners to accept the property, which would cause it to "revert" or turn back. My opinion is that Calvin Bronnenberg intended to provide, that in the event his farm was not accepted by the Commissioners, or, in the event it should be abandoned by the Commissioners as an orphan’s home, that, in either of those events, another institution should take over the property. That is the extent to which the Board of Commissioners is limited in holding and managing the "Calvin A. Bronnenberg Orphan’s Home."

It is now desired by the Commissioners and also by the State Highway Commission that a highway be constructed across a part of said land. Neither the construction or the use of the proposed highway will materially interfere with or injure the property in its use for the orphan’s home.

Your specific questions are as follows:

"1. Has the Board of Commissioners of Madison County, Indiana, power to grant to the State of Indiana, an easement on, and through the real estate described in the Will which is used as an orphanage?

"2. If the Board of Commissioners of Madison County, Indiana, granted an easement to the State of Indiana for highway purposes on and through said property now used as an orphanage would such action on the part of the Board cause said Board to lose title to the residue not granted?"

The answer to the first question is in the affirmative. The second inquiry is answered in the negative.