ACCOUNTS, STATE BOARD OF: Ditch payments. Whether appropriation by County Council necessary.

February 25, 1938.

Hon. William P. Cosgrove,
State Examiner,
State Board of Accounts,
Indianapolis, Indiana.

Dear Sir:

In your letter of February 18, you set out that chapter 162 of the Acts of 1937 provides that if the Board of County Commissioners shall deem it inadvisable to establish a general ditch improvement fund, that all payments from and reversions to such fund shall be paid from and shall revert to the county general fund. You then say that you desire our opinion on the following question:

"In case the county commissioners have failed to establish a general ditch improvement fund, can payments be made for maintenance or construction of ditches from the county general fund without appropriation?"

Chapter 110 of the Acts of 1935, which amended chapter 154 of the Acts of 1899, provides in part as follows:

"Appropriations by common council shall not be necessary to authorize a warrant drawn and payment made out of the county treasury in the following instances, namely:

"* * * or of any money due to any person, company or corporation which has been paid into the county treasury pursuant to assessment on persons or property of the county in territory less than that of the whole county for any public improvement or the purchase thereof, such as ditches and drains and repairs thereof . . . ."

In view of the provisions of this particular section, a portion of which was quoted above, it is my opinion that if monies are due to a person or corporation, etc., because of ditches, drains, or the repairing of either of them, and the county treasury has money which was paid into it pursuant to assessment on persons or property of the county in territory less
than that of the whole, no appropriation is necessary for the payment from the county treasury of such sums.

On the other hand, if the money has not been paid into the county treasury pursuant to assessment on persons or property of the county in territory less than that of the whole for such public improvements, such as ditches and drains and repairs, etc., then it is my opinion that payment can be made only after the proper appropriation has been made for such sum of money as is found to be necessary, pursuant to the requirements of law in such cases as is made and provided.

ALCOHOLIC BEVERAGE COMMISSION: Port of entry permittees may name carrying charges.

March 7, 1938.

Hon. Hugh Barnhart,
Chairman Alcoholic Beverages Division,
Indianapolis, Indiana.

Dear Mr. Barnhart:

This will acknowledge receipt of your copy of proposed resolution to the effect that importing agents holding a port of entry permit may at their election waive carrying charges and other fees imposed on alcoholic beverages imported into the State of Indiana.

Section 9 of the Alcoholic Beverages Act contains no requirement as to fees which the importer is required to charge for handling such imports. It is, therefore, possible under the law for the importer to handle all importations without charge for such service, if he desires so to do. It is his duty, however, to collect the taxes imposed under the law on all importations.

The resolution recognizing this right is regular in form and within the general power of the Alcoholic Beverages Commission of the State of Indiana to adopt.