accompanied by any provision which attempted to reinstate the provisions of Chapter 16 of the Acts of the Indiana General Assembly 1932 Special Session.

It therefore follows that said last named Act is not reinstated and is not in force and effect at this time. Our statute provides that "whenever an Act is repealed, which repeals a former Act, such Act is not thereby revived unless it so expressly be provided." Section 1-307, Burns' Indiana Statutes, 1933 Revision.

It is my opinion, therefore, that the provisions of section 5, chapter 16 of the Acts of the Indiana General Assembly 1932 Special Session, does not authorize the levying of a tax for the repair, maintenance or preservation of county highways.

ACCOUNTS, STATE BOARD OF: County Council. No appropriation of P.W.A. funds necessary.

September 22, 1938.

Hon. W. P. Cosgrove,
State Examiner,
Division of Accounting and Statistics,
State House,
Indianapolis, Indiana.

Dear Mr. Cosgrove:

This will acknowledge receipt of your letter of September 20, in which you submit the following questions:

"Is it necessary to have the funds received from a P.W.A. grant appropriated by the county council, before the county auditor can legally draw a county warrant against such funds?

"Can the proper officials legally enter into a contract for the construction of a county hospital which exceeds the amount appropriated for that purpose by the county council?"

In answer to your first question, your attention is directed to chapter 110 of the Acts of the Indiana General Assembly 1935 which deals generally with the necessity for appropriations by the county council before a warrant may be drawn and payment made out of the county treasury. After reciting
the instances in which an appropriation is necessary the Act closes with the following provision:

"That nothing contained in this Act shall be so construed as to apply to any funds received from the state or the Federal Government for poor relief, unemployment relief, old-age pension or other funds which may at any time be made available under "The Economic Security Act," or under any other Federal Act providing for civil and public works projects."

It is apparent from a reading of the sentence last quoted that no appropriation is required by the county council as a condition precedent to the expenditure of funds obtained from the Federal Government for the purpose of assistance in public works projects.

In answer to your second question, your attention is directed to section 26-525, Burns’ Indiana Statutes, 1933 Revision, which reads as follows:

"No board of county commissioners, officer, agent or employee of any county shall have power to bind the county by any contract or agreement, or in any other way, to any extent beyond the amount of money at the time already appropriated by ordinance for the purpose of the obligation attempted to be incurred, and all contracts and agreements, express or implied, and all obligations of any and every sort beyond such existing appropriation are declared to be absolutely void."

This statute is Section 25, Chapter 154 of the Acts of the Indiana General Assembly 1899. Chapter 110 of the Acts of the Indiana General Assembly 1935, above quoted, is an amendment of Section 22 of an Act concerning county business, the same being Chapter 154 of the Acts of 1899.

Since the 1935 Act is the last expression of the Legislature upon the subject of the necessity of appropriations by the county council, and since it expressly excludes from the provisions of the Act funds made available by Federal Government for public works projects, it is my opinion that such Act modifies and repeals by implication the section of the original statute which invalidates all contracts and agreements in excess of amounts appropriated by ordinance.
It is my further opinion that the proper officials may legally enter into a contract for the construction of a county hospital, providing the total cost thereof does not exceed the amount appropriated for that purpose by the county council, plus the amount made available by the Federal Government for such project.

HIGHWAY COMMISSION, STATE: Right to advance money to counties for right-of-way. September 23, 1938.

Hon. Howard Atcheson,
State Highway Commissioner,
State House Annex,
Indianapolis, Indiana.

Dear Mr. Atcheson:

This will acknowledge receipt of your letter of August 26, in which you submit the following question:

"Does the State Highway Commission of Indiana have the power to purchase or acquire right-of-way for a county (on a road to be taken into the state highway system, subject to the county acquiring the right-of-way), with the understanding that the county reimburse the State Highway Commission from the county's motor vehicle funds, over a period of five years."

In reply to this question, your attention is directed to an official opinion of the Attorney General issued September 7, 1937, which held that under Chapter 135 of the Acts of the Indiana General Assembly 1937 all funds allocated or distributed to respective counties for the use and maintenance of county highways must be annually appropriated by the county council before the same can be expended for any purpose.

Your attention is also directed to section 26-525, Burns' Indiana Statutes, 1933 Revision, which reads as follows:

"No board of county commissioners, officer, agent or employee of any county shall have power to bind the county by any contract or agreement, or in any other way, to any extent beyond the amount of money at the time already appropriated by ordinance for the purpose of the obligation attempted to be incurred, and