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
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."

It is apparent from the provisions of the above statutes, therefore, that any contract entered into between the State Highway Commission and the Board of County Commissioners with respect to reimbursement of funds expended over a five-year period, would be invalid, since the same would be in excess of any annual appropriation. Indebtedness of a county can only be created over a long term, according to the provisions of the statute authorizing borrowing of money.

I know of no law, therefore, which authorizes such an agreement as the one contained in your question.

STATE POLICE, INDIANA: Right to take possession of stolen cars.

Hon. Don F. Stiver,
Superintendent of State Police,
Division of Public Safety,
State House,
Indianapolis, Indiana.

September 23, 1938.

Dear Mr. Stiver:

This will acknowledge receipt of inquiry as to the right of a police officer to take possession of stolen automobiles when found in possession of garage owners with whom the thief had left them for repairs. You further inquire as to the right of the police officer to take possession of such automobile and deliver same to the owner.

In reply to this inquiry, your attention is directed to Section 47-550, Burns' Indiana Statutes, 1933 Revision, which reads in part as follows:

"Any sheriff or any state police officer or any officer or member of a municipal police department or any representative of the secretary of state who may discover any motor vehicle or motor-bicycle which has apparently been abandoned or any motor vehicle or motor-bicycle which is in the possession of any person other