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.

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

September 23, 1938.

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

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
than the legal owner, and who can not establish his right to the possession of such motor vehicle or motor-bicycle, shall cause such motor vehicle or motor-bicycle to be taken to and stored in a suitable place, and shall report such fact in writing to the secretary of state within five (5) days after the discovery of such motor vehicle or motor-bicycle. Immediately upon receipt of such notice, it shall be the duty of the secretary of state to institute search for the legal owner of such motor vehicle or motor-bicycle, and if such legal owner can not be found within thirty (30) days from the date on which such motor vehicle or motor-bicycle was discovered, the secretary of state shall cause such motor vehicle or motor-bicycle to be advertised for sale as abandoned or seized property, by inserting a notice, three (3) consecutive days, in a newspaper published and enjoying a general circulation in the county in which such motor vehicle or motor-bicycle was discovered, and within five (5) days after the date on which the notice was last published, the secretary of state shall sell such motor vehicle or motor-bicycle to the highest bidder."

It is apparent from a reading of the above statute that it is made the duty of a police officer to take possession of any motor vehicle when found in the possession of any person who has no right thereto and to immediately institute search for the owner. The question, therefore, arises as to whether or not the garage man to whom a stolen automobile is delivered by the thief for purposes of making repairs thereon has any legal right to the possession of such motor vehicle.

Under the laws of the State of Indiana a garage man who makes repairs of the automobiles may have both a statutory and common law lien thereon under certain conditions. The statutory lien which is afforded him is set forth in section 47-552, Burns' Indiana Statutes, 1933 Revision. This statute expressly provides that such lien shall attach when the labor and materials, storage or repairs are made by the garage man "at the request of the owner" of the automobile. The same rule applies as to the common law lien which can only be acquired where the repairs are ordered by the owner or his duly authorized agent.
As was said by Judge Kime in his concurring opinion in the case of Yellow Manufacturing Acceptance Corporation v. Linsky, 99 Ind. App. 691:

“In Indiana today it is possible for the mechanic to determine, with very little effort, the positive ownership of an automobile. If the repair job is not worth this effort it is not worth considering by the mechanic.”

The garageman or mechanic who makes repairs on a stolen automobile does so at his peril, and it is my opinion that he is not entitled to retain possession of the automobile upon which such repairs have been made except he can show that such repairs were ordered by the owner or his duly authorized agent.

It is my opinion, therefore, that in the absence of such a showing, a police officer finding a stolen car in the possession of a garageman may take possession thereof and deliver same to the lawful owner.

CONSERVATION, DEPARTMENT OF: Right of state to convey land in Pokagon State Park for right-of-way for county road.

September 27, 1938.

Hon. Virgil M. Simmons,
Commissioner, Department of Conservation,
Indianapolis, Indiana.

Dear Sir:

I have before me your request for an official opinion in which you state that a number of property owners on Lone Tree Point at Lake James are desirous of petitioning the Board of County Commissioners of Steuben County for the improvement and resurfacing of a county road which runs through Pokagon State Park. You state further that this road was established many years before the State of Indiana acquired the land now comprising Pokagon State Park and is the only inlet and outlet to the cottages located on Lake James.

You further state that the state owns the land on both sides of the road for a considerable distance and that a part of the road is used as an entrance to the park and connects