lawfully under existing statutes sell the necessary land to widen this particular road to be established as a county road. This particular county road would be vacated except for the fact stated in your letter that the vacation of the road would make privately owned land inaccessible to a public highway.

Burns' Indiana Statutes, Annotated 1933, Cumulative Pocket Supplement, June, 1938, Sec. 60-813.

INSURANCE DEPARTMENT: Surplus amount necessary for certificate of authority to do insurance business.

September 27, 1938.

Hon. George H. Newbauer,
Insurance Commissioner of State of Indiana,
State House,
Indianapolis, Indiana.

Dear Mr. Newbauer:

In your letter of September 23, you propound two questions. They are: "Can this Department legally authorize a new stock company to issue contracts of life insurance if at the time it applies for its authority to issue contracts of insurance it has less than fifty thousand of surplus?"

"If this Department can legally license a new company with less than fifty thousand of surplus, then what amount of surplus is required under the law?"

Your first question arose out of paragraph E of Section 74 of Chapter 162, of the Acts of the Indiana General Assembly for 1935, which chapter is known as the Indiana Insurance Law. This paragraph is a portion of the section dealing with requirements for stock companies as to the amount of capital stock paid up in money. Paragraph E is as follows:

"Each domestic capital stock company organized under this law, in addition to the capital in and by this section required, shall have a surplus paid-in equal to at least fifty per cent (50%) of the capital required of such company."

In the instant case the capital required of the company is one hundred thousand dollars therefore then the question
which you present is this in substance, must this proposed company have now as a surplus the total of fifty thousand dollars or can it have had fifty thousand dollars but have expended a portion of such sum and be granted a certificate upon such showing.

The verb "shall have" as used in paragraph E is the future perfect tense which if used correctly, and such must be the presumption, indicates futurity. Thus then it would seem that the fifty thousand dollars must be in the possession of the corporation at the time that the certificate of authority from the Insurance Department is asked for. It would also seem that were not this the case the Legislature would have used a different tense, that is to say they would have said "shall have had."

It will also be noticed in a reading of paragraph E that the word "paid-in" is a hyphenated word. The word "paid" is a verb; the word "in" is a preposition, thus then the hyphen actually must mean something. The applicable grammatical rule is in the use of a hyphen that "groups of words which are to be read as a single part of speech, when the omission of the hyphen might not make the sense clear" may be hyphenated. By hyphenating this verb and this preposition the new word "paid-in" becomes an adjective which modifies the word surplus and is not a part of the verb "shall have."

Used then in this sense the word "paid-in" modifies surplus and in connection with the verb "shall have" indicates that the fifty thousand dollars in the instant case must be in hand in order for the Department to legally authorize a new stock company to issue contracts of life insurance.

Attention is further directed to Section 8, Chapter 120, of the Acts of the Indiana General Assembly 1937, commonly known as the "Indiana Securities Law" which provides that:

"The Commission may by order duly recorded fix the maximum amount of commission or other form of remuneration to be paid in cash or otherwise directly or indirectly for or in connection with the sale or offering for sale of such securities."

While the statute does not fix the exact amount of the purchase price paid in for such stock that may be used for promotion purposes, the order of the commission ordinarily does not exceed fifteen per cent, and while, as a practical
matter, these promotion charges are paid out of the funds paid in for the purchase of stock, yet, it is my opinion that the $50,000.00 in the instant case must be cash on hands at the time of the issuance of the charter. Clearly, this $50,000 could not be classed as surplus if in truth and in fact fifteen per cent of this amount has already been spent for promotion purposes.

Your first question is therefore answered in the negative and your second question needs no answer.

ARCHITECT, STATE BOARD OF: Whether State Board of Health rules with respect to electric wiring is repealed by Sanitary School House Law. September 28, 1938.

Hon. Leighton Bowers,
State Inspecting Architect,
Indianapolis, Indiana.

Dear Sir:

I have before me your request for an official opinion with respect to the question as to whether rule 3 of the Rules and Regulations of the State Board of Health governing the construction, equipment and maintenance of sanitary features of public and parochial school buildings is now in force and effect. For the purpose of clearer identification, the rule referred to was enacted by the Indiana State Board of Health on December 17, 1913, the Board professing to act pursuant to Chapter 144 of the Acts of General Assembly of 1909, and is as follows:

“No window sash shall have more than four lights, except where the factory type of window with metal sash frame is used, and the tops of all windows shall be square. Where the proximity of other buildings or a portion of the same building interferes with proper lighting of a classroom, the light shall be properly projected and diffused by use of prism glass. When artificial lighting by means of electricity or gas is used, the lights shall be near the ceiling, and the light shall be properly projected and diffused by either indirect or semi-indirect system of lighting. All electric wiring