As soon as this man has either been committed again to the custody of any warden or superintendent within the Department of Correction, and transferred or received at the Indiana State Prison, or has been released from the jurisdiction of the St. Joseph Circuit Court on the new charge presently pending, you have full authority to take him into custody to serve the sentence which began to run on June 23, 1952.

OFFICIAL OPINION NO. 52

October 7, 1954

Bertram Groesbeck, Jr., M. D.
Director of Health
State Board of Health Building
1330 West Michigan Street
Indianapolis 7, Indiana

Dear Doctor Groesbeck:

I have your letter requesting an Official Opinion which I quote in part as follows:

"In order to facilitate admission to the Riley Hospital of pupils of the Indiana State School for the Deaf and the Indiana School for the Blind who are in need of hospitalization, your opinion is respectfully requested as to the status of the schools as benevolent institutions.

"Chapter 98, Section 2 of the Acts of 1907 state that the Schools for the Blind and Deaf 'shall not be regarded, nor classed, as benevolent or charitable institutions.' Under the provisions of this Act, these schools have been excluded from the provisions of Chapter 300, Sections 4 and 5 of the Acts of 1947 which provides for the admission of inmates of benevolent institutions to state hospitals.

"However, in Chapter 38 of the Acts of 1941, which presumably enumerates the benevolent institutions, the schools are specifically referred to. Furthermore, Article IX of the State Constitution apparently includes the schools under the category of benevolent institutions."
Prior to 1907, the state schools for the education of the deaf and blind were established and known as the Indiana Institution for the Education of the Deaf and Dumb, and the Indiana Institution for the Education of the Blind, respectively.

By virtue of the Acts of 1907, Ch. 98, Sec. 2, as found in Burns' Indiana Statutes (1950 Repl.), Section 22-108, the names and classifications of the two aforementioned institutions were changed in the following language:

"* * *; the name of the Indiana Institution for the Education of the Deaf and Dumb is hereby changed to the Indiana State School for the Deaf; the name of the Indiana Institution for the Education of the Blind is hereby changed to the Indiana School for the Blind; and said schools for the deaf and for the blind shall not be regarded nor classed as benevolent or charitable institutions, but as educational institutions of the state conducted wholly as such."

The Acts of 1947, Ch. 300, Sec. 4, as found in Burns' Indiana Statutes (1951 Repl.), Section 52-1134, to which you refer reads:

"Any person who is an inmate of any penal, benevolent or correctional institution of the state of Indiana, and is found to be in need of medical, surgical or hospital care which cannot be provided by the institution, may be placed in any state owned or operated hospital or other public hospital for necessary medical, surgical or hospital care on written order of the superintendent or warden of the state institution wherein said inmate is confined, provided that such inmate shall not be placed in a public hospital other than a state owned or operated hospital unless the daily charge for hospitalization at such public hospital shall be less than that charged by the state owned or operated hospital."

The Acts of 1947, Ch. 300, Sec. 5 (a), as found in Burns' Indiana Statutes (1951 Repl.), Section 52-1135 (a) provides in part as follows:

"The necessary costs and expenses which may be incurred upon the commitment of a person to a hospital
by the county department of public welfare shall be paid out of the county welfare fund, except as is herein otherwise provided. The necessary costs and expenses incurred upon the commitment of any person to any hospital operated by the Trustees of Indiana University shall be paid by the county from which the person is committed and shall be paid out of the county welfare fund of such county in the following manner * * *.

The legal question involved is whether the wording and effect of the 1907 Act, supra, precludes inmates of the Indiana School for the Blind and the Indiana School for the Deaf from being admitted into state owned and operated hospitals and obtaining medical, surgical or hospital care therein as provided by said Acts of 1947, Ch. 300, Sec. 4, supra.

While the 1907 Act does state that the blind and deaf schools "shall not be regarded nor classed as benevolent or charitable institutions," it is my opinion that such Act, insofar as the classification of the two schools in question is concerned, was repealed by the Acts of 1941, Ch. 38, Sec. 10, the title of which Act reads:

"An act concerning the state benevolent, reformatory, correctional and penal institutions, providing penalties and repealing all laws and parts of laws in conflict therewith and declaring an emergency."

Section 1 of the above act, as amended by Acts of 1945, Ch. 336, Sec. 1, as found in Burns' Indiana Statutes (1950 Repl.), Section 22-123, providing for the appointment of trustees at designated state benevolent, reformatory, correctional and penal institutions, specifically refers to the Indiana State School for the Blind and the Indiana State School for the Deaf. It would appear that the language employed in the title and body of the said 1941 and 1945 Acts, supra, impliedly reclassified the blind and deaf schools as "state benevolent institutions."

Your attention is also invited to the Appropriation Act, being Acts of 1945, Ch. 186, passed by the same Legislature which enacted the provisions of the 1945 Act just referred to, wherein Sec. 2A thereof appropriates money to certain named "penal, benevolent and charitable state institutions," the In-
Indiana School for the Deaf and Indiana School for the Blind being specifically mentioned in said section.

It is to be further observed that the title to Acts of 1941, Ch. 38, refers to "state benevolent, reformatory, correctional and penal institutions," and Sec. 1 thereof includes the state blind and deaf schools.

Section 2 of the Appropriation Act of 1947, contained in Ch. 233, thereof, also includes the two schools in question under the heading of "benevolent institutions."

The latest legislative expression bearing on this question is the "Health Administration Act of 1953," being Acts of 1953, Ch. 197, as found in Burns' Indiana Statutes (1951 Repl., 1953 Supp.), Section 60-2001 et seq., which established, as an agency of state government, a department of health.

For the purpose of administrative control and responsibility, Section 503 of said Act, supra, as found in Burns' Indiana Statutes (1951 Repl., 1953 Supp.), Section 60-2043, classified the Indiana State School for the Deaf and the Indiana School for the Blind as being under the jurisdiction of the Department of Health, Division of Medical Institutions, headed by a commissioner of said division appointed by the Governor.

Included in the same classification are: Northern Indiana Children's Hospital, Southern Indiana Tuberculosis Hospital, Indiana State Sanitarium, Indiana Soldiers' and Sailors' Children's Home and Indiana State Soldiers' Home, all of which are unquestionably benevolent institutions.

Of further importance is Section 502 (b) of said Act, supra, as found in Burns' Indiana Statutes (1951 Repl., 1953 Supp.), Section 60-2042 (b), which states that said commissioner shall:

* * *

"(b) Direct medical care and rehabilitation of patients confined in the institutions under the control of the division."

Thus, there is a statutory duty imposed upon said commissioner for and on behalf of the state to direct the medical care of persons in the Indiana State School for the Deaf and the Indiana School for the Blind.

Since Acts of 1947, Ch. 300 is, as expressed in its title:
"An Act concerning medical, surgical or hospital care for certain persons for whom the state or county has the responsibility of furnishing medical, surgical or hospital care * * *.

the classification in the 1907 Act is ineffectual to deprive persons in the deaf and blind schools of the benefits of the Acts of 1947, Ch. 300.

It is my opinion that by virtue of the wording of the various acts, hereinabove referred to, which were subsequent to Acts of 1907, Ch. 98, Sec. 2, that they have repealed the provision in said 1907 Act pertaining to the classification of the Indiana School for the Blind and Indiana School for the Deaf as educational institutions; and it is my further opinion that, since said 1907 Act, the two schools in question have been treated, regarded and classified by the various legislatures as benevolent or charitable institutions.

Therefore, it is my further opinion that the pupils of the Indiana School for the Blind and Indiana School for the Deaf are included and covered by the provisions of the Acts of 1947, Ch. 300, Secs. 4 and 5, supra, and therefore may be admitted to Riley Hospital when in need of hospitalization.

OFFICIAL OPINION NO. 53

October 22, 1954

Mr. R. O. Cole, Secretary
State Soil Conservation Committee
Agricultural Experiment Station
Purdue University
Lafayette, Indiana

Dear Mr. Cole:

I have your request for an Official Opinion on the question, briefly stated, as follows:

May a County Highway Department or the Board of Commissioners of a county make payment toward the cost of an improvement under the provisions of the Soil Conservation Act (Acts 1937, Ch. 232, Sec. 15-1801