"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of the various acts, hereinabove referred to, which were subsequent to Acts of 1907, Ch. 98, Sec. 2, that they have repealed the provision in said 1907 Act pertaining to the classification of the Indiana School for the Blind and Indiana School for the Deaf as educational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

196
et seq., Burns’ Repl. 1950), or may a county, under any other law, make such payment to a Soil Conservation District?

You call my attention to an opinion of the Attorney General, 1941 O. A. G., page 327, in which it was held that the State Highway Department of Indiana had authority, under the Soil Conservation Act, to make contribution to a Soil Conservation District. The opinion, however, confines that authority to such projects as involve drainage improvements which confer benefits on a highway or highways under control of the State Highway Department within the district to which any such contribution is made, and, properly, I think, defines the authority in this respect as being discretionary on the part of the State Highway Department. With this explanation, I approve that opinion, since the Soil Conservation Act, supra, contemplates the construction of necessary drainage ditches by the Soil Conservation authorities.

The 1941 O. A. G., page 327 sets forth provisions of the Soil Conservation Act, supra, that, under the explanation herein made, have equal application to a drainage project undertaken by a Soil Conservation District and benefits a highway or highways under the control of a Board of Commissioners. In the interest of brevity, these provisions are omitted in this opinion.

A county of the state, by express definition in the Soil Conservation Act, Acts of 1937, Ch. 232, Sec. 3, as amended, as found in Burns’ Indiana Statutes (1950 Repl.), Section 15-1803, is an agency of the state. This is true, however, in the absence of this statutory definition. Counties are political subdivisions of the state and, as such, act for the state under powers delegated by the Legislature.

State v. Board of Commrs. of Marion County (1908), 170 Ind. 595, 85 N. E. 513.

This is particularly true with reference to highways. Under this principle, the authority last cited, and numerous other authorities, hold that all highways belong to the state, and that local subdivisions, in the exercise of control over public highways, act as agents for the state.

The Acts of 1937, Ch. 232, Secs. 8 and 14, as found in Burns' Indiana Statutes (1950 Repl.), Sections 15-1808 and 15-1814, have been construed in 1941 O. A. G., page 327, supra, as conferring authority upon the State of Indiana by the State Highway Commission to contribute towards the cost of an improvement under the provisions of the Soil Conservation Act, supra.

Sections 8 and 14 also confer like authority upon agencies of the State of Indiana. Section 3 of the Soil Conservation Act, supra, by express definition, includes subdivisions of the state within the definition of the words "agencies of the state." Therefore, construing Sections 3, 8 and 14 of the Soil Conservation Act, supra, together with the reasoning of the 1941 O. A. G., page 327, supra, it is my opinion that a county, through its Board of Commissioners has authority to contribute to a Soil Conservation District for the construction of a drainage project that confers benefits on a highway under control of such Board. However, the authority, under the statute, is not compelling but merely discretionary both as to the wisdom of the proposed drainage project and the amount of the contribution. It would be necessary, in my opinion, for the Board to have an available appropriation from which to make such contribution.

Since a County Highway Department acts under the Board of Commissioners, I think the decision on the question of contribution to any such project would rest with that Board.

OFFICIAL OPINION NO. 54

October 28, 1954

Margaret E. Morgan, M. D.
Commissioner of Mental Health
LaRue D. Carter Memorial Hospital
1315 West 10th Street
Indianapolis 7, Indiana

Dear Doctor Morgan:

This is in reply to your letter in which you requested an Official Opinion from this office as follows:

"Chapter 253 of the Acts of 1951 established certain procedures for the collection of the expense of main-