It would appear that Acts of 1957, Ch. 359, supra, is comprehensive legislation since it relates to the commitment and admission of mentally ill persons to a state-owned and operated psychiatric institution and includes any mental illness or disease within its purview.

It is my opinion that Acts of 1957, Ch. 359, supra, impliedly repeals those provisions of Acts of 1905, Ch. 159, in conflict therewith, and does require a re-examination of an epileptic committed to New Castle State Hospital under the provisions of Acts of 1905, Ch. 159.

OFFICIAL OPINION NO. 16

May 19, 1959

Mr. Albert Kelly, Administrator
Department of Public Welfare of the
State of Indiana
141 S. Meridian Street
Indianapolis 25, Indiana

Dear Mr. Kelly:

This is in response to your letter of March 30, 1959, in which you have requested an Official Opinion in answer to the following question:

“Would the staff members of the several county departments of public welfare be entitled to receive travel allowance as mileage for the use and operation of their privately owned motor vehicles necessarily used in the discharge of their duties in a sum not to exceed ten cents (10¢) per mile, or would the mileage rate be limited to seven cents (7¢) per mile, as provided for state employees under Chapter 114 of the Acts of 1959?”
1959 O. A. G.

Your question no doubt results from the terminology contained in Acts of 1936 (Spec. Sess.), Ch. 3, Sec. 24, as amended by Acts of 1959, Ch. 373, Sec. 3. That section now reads as follows:

"Sec. 24. County staff. The county director, with the approval of the county board, shall appoint from eligible lists established by the Indiana personnel board such number of assistants as he and the county board may determine to be necessary to administer the welfare activities within the county and to perform all other duties required of the department, and shall fix the compensation of such assistants within the salary ranges of the pay plan adopted by the Indiana personnel board and approved by the state budget committee and within the lawfully established appropriations: Provided, That the provisions of this section shall not apply to institutional employees of the several county departments of public welfare. The county director, with the approval of the county board, shall determine as to the travel allowance to be allowed each assistant, and such allowance may be fixed by the county director, with the approval of the county board, at either an amount not to exceed forty dollars per month or not to exceed ten cents per mile. In addition each assistant shall be entitled to expenses of hotel and meals if his duties require that he travel outside the county in the performance of his duties. Travel allowance, hotel and meals shall be limited by the lawfully established appropriations made for this purpose and subject to the approval of the county council. Provided such amount shall not exceed the amount set by law for state employees." (Our emphasis)

The words "forty" and "ten" have been given special emphasis in the above quotation for the reason that they comprise the only changes wrought by the 1959 amendment to said section. As last previously amended in 1955, Section 24 contained exactly the same verbiage with the exception that the words "thirty" and "seven" were used.

The problem which you present arises by reason of the last sentence of the section as amended, hereinafter referred to as "the proviso," which reads as follows:
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“Provided such amount shall not exceed the amount set by law for state employees.”

This proviso is a carry-over from the last previous amendment to the section which was Acts of 1955, Ch. 227, Sec. 3, and the answer to your question depends upon to what the words “such amount” refer.

The appropriations act of the 1959 General Assembly is Acts of 1959, Ch. 114. Section 2a of that chapter reads, in part, as follows:

“Sec. 2a. The State Budget Committee is authorized to fix and prescribe a per diem in lieu of traveling expenses other than transportation, for travel within the limits of the State of Indiana in an amount not to exceed eight dollars and eighty cents ($8.80) per day.

“* * * Nor shall any appropriation be construed as authorizing the payment of any sum in excess of seven cents (7¢) per mile, payable out of any funds, for the use or operation of any motor vehicle, owned or operated by any state officer or employee, and used in the discharge of state business within the borders of the State of Indiana.” (Our emphasis)

If the proviso, which was added to the section by Acts of 1955, Ch. 227, Sec. 3, and continued by Acts of 1959, Ch. 373, Sec. 3, is construed as being applicable to the words “travel allowance, hotel and meals” in the immediately preceding sentence, the effect will be to nullify the apparent intention of the 1959 General Assembly to permit a discretionary travel allowance not to exceed ten cents per mile by placing the seven cent restriction applicable to state employees thereon, whereas the Legislature specifically fixed the limitation on “travel allowance” at an optional forty dollars per month or ten cents per mile.

To construe the proviso as a restriction upon the “travel allowance” limit would be to completely ignore a fundamental rule of statutory construction as contained in Sutherland, Statutory Construction, 3rd Ed., which rule will be found in Section 4705, and reads as follows:
"It is an elementary rule of construction that effect must be given, if possible, to every word, clause and sentence of a statute." A statute should be construed so that effect is given to all its provisions, so that no part will be inoperative or superfluous, void or insignificant, and so that one section will not destroy another unless the provision is the result of obvious mistake or error."

It is possible to construe the language of Section 24, as amended, so as to give force and effect to each and every word, clause and sentence therein contained by confining the application of the proviso to the words "expenses of hotel and meals" set forth in the sentence immediately following the provision for travel allowance.

The history of the questioned proviso bears out this construction, for it was added to the section by Acts of 1955, Ch. 227, Sec. 3, which section also for the first time allowed expenses for hotel and meals. Further support is given to this construction by Sections 1 and 2 of both the 1955 and 1959 Acts.

Section 1 of the Acts of 1959, Ch. 373 amending Acts of 1936 (Spec. Sess.), Ch. 3, Sec. 19, and concerning members of county boards of public welfare reads, in part, as follows:

"* * * The members of the county board shall serve without salary, but shall be entitled to receive the sum of ten cents per mile for each mile actually and necessarily traveled, in performance of their official duties. They shall also be entitled to expenses for hotel and meals if their official duties require their travel outside of their counties. The per diem cost for hotel and meals shall not, however, be paid beyond the sum set by law for state employees.” (Our emphasis)

Section 2 of said chapter relates to county directors and amends Section 20 of the 1936 Act. The pertinent portion of that section reads as follows:

"* * * In addition to the compensation hereinbefore prescribed the county director may receive the sum of eight cents per mile for each mile necessarily traveled in the discharge of his duties. He shall be entitled to
expenses for hotel and meals if his official duties require that he travel outside of his county. *The per diem costs for his hotel and meals shall not, however, be paid beyond the sum set by law for state employees.* Travel expense, hotel and meals shall be paid only if the amount has been made available by appropriation.” *(Our emphasis)*

It is noteworthy that in the two above quoted portions the Legislature set specific sums payable as travel expense for transportation to board members and to county directors. In neither instance is that sum measured by the standard payable to state employees. However, in each instance the per diem cost for hotel and meals is limited so as not to exceed the per diem payable to state employees. In my opinion, the Legislature clearly intended to accomplish a similar result in the instance of assistants to the county directors by setting a locally fixable travel expense for transportation and a separate per diem for hotel and meals, said per diem not to exceed that payable to state employees.

Further supporting this conclusion is the fact that there is no statute applicable to state employees fixing a maximum limitation cumulatively for expenses of transportation, hotel and meals. An examination of Acts of 1959, Ch. 114, Sec. 2a quoted above will disclose, however, that limitations are set upon transportation expense on a mileage basis, with a separate per diem inclusive of expenses for both hotel and meals, but not inclusive of expenses of transportation.

This fact gives strength to my conclusion because while there is a plurality of sums payable to state employees, the term “such amount” expressed in the proviso is in the singular. Therefore, the proviso should not be construed as including “travel allowance, hotel and meals” as set out in the immediately preceding sentence but as referring only to expenses for “hotel and meals.”

Since Sections 19, 20 and 24 of the Welfare Act, as amended, *supra*, authorize the payment of expenses for hotel and meals but without therein fixing a specific monetary limitation upon such expenses, the Legislature used the proviso as the means of limiting such expenses according to the standards applicable to state employees. No comparable basis exists with
reference to expenses for transportation, since the Legislature positively provided a specific monetary limitation for such of “not to exceed forty dollars per month or not to exceed ten cents per mile.”

In conclusion, it is most illogical and improbable that the Legislature would have increased a possible mileage allowance and would in the same act and section have so limited said possible increase as to make the intended change ineffective.

It is therefore my opinion that the words “such amount” used in the last sentence of Acts of 1936 (Spec. Sess.), Ch. 3, Sec. 24, as amended by Acts of 1959, Ch. 373, Sec. 3 refer to the words “hotel and meals” contained in the sentence immediately following the grant of mileage allowance, and not to the words “travel allowance, hotel and meals” contained in the sentence immediately preceding the last sentence, or proviso. Assistants to the several county welfare directors may, therefore, receive a “travel allowance” in an amount set by their respective county directors and approved by their respective county boards not to exceed $40.00 per month or 10¢ per mile.

OFFICIAL OPINION NO. 17

May 20, 1959

Honorable Maurice L. Mendenhall
Indiana State Senator
Sheridan, Indiana

My dear Senator:

Your letter of May 9, 1959, has been received in which you request an Official Opinion on the following question:

“In the event that a new school or schools are erected under a plan of consolidation and said consolidated district includes townships other than Adams Township, would Adams Township get credit in the financial agreement between or among the townships for the sum of money in the accumulative building fund. The trustee is desirous of beginning a new accumulative building fund if he can be assured that Adams Town-