technical schools that satisfactory evidence of prior educational requirements must first be submitted.

It is my opinion then that no school of beauty culture should accept for training any who fails to meet educational requirements as provided in "The Indiana Beauty Culture Law," Chapter 72, Acts 1935, page 200, Burns' Revised Statutes, 1935 Supplement—Sec. 63-1801 to Sec. 63-1828 inclusive.

Schools of beauty culture must be approved by the State Board of Beauty Culturist Examiners (Sec. 3 of said Act) and a registered apprentice certificate cannot issue to one not a graduate of an approved school of beauty culture. (Sec. 5, Clause 3 of said Act.)

Sec. 23 of said Act authorizes the Board to adopt rules and regulations "not inconsistent with the provisions of this Act." A rule or a regulation adopted by the Board requiring approved schools of beauty culture (over which your Board has control) to ascertain if those seeking enrollment therein meet educational requirements before enrolling, is not only not inconsistent but practical and logical.

INDIANA STATE LIBRARY: Wills—Bequest to township for library purposes. Town and township libraries.

April 10, 1941.

Miss Hazel B. Warren, Chief,
Extension Division,
Indiana State Library,
Indianapolis, Indiana.

Dear Miss Warren:

I have your letter of February 15, 1941, in which you request my official opinion as to the establishment and maintenance of a town and township library at Zionsville, Eagle Township, Boone County, Indiana, by the township trustee thereof.

I have also your letter of February 24th submitting the pertinent item of the last will and testament of Joseph B. Pitzer, reading as follows:

"I give and bequeath to the Township of Eagle in the County of Boone and State of Indiana for the purpose of purchasing a suitable library for the use of such residents thereof as are deemed proper by the township
trustee of said township and those of the school teachers thereof who will advise with said trustee in relation thereto the sum of six hundred dollars, the same to be paid to said trustee for said purpose."

The question presented by this bequest is whether the language in this item of said will is such as to prevent the establishment of a public library in Eagle Township, Boone County, Indiana, if thereby the township trustee of said township is made to surrender or abandon certain duties ostensibly placed upon him by the terms of said will in relation to said library. The answer to this question involves the construction of the will itself, or, more particularly, the item thereof in which this bequest is made.

I am unable to view it otherwise than as executed and as distinguished from a continuing trust.

In the first place the bequest was made not to the township trustee but to the township, which is a political subdivision of the State—a municipal corporation. It is an entity endowed with governmental and regulatory powers affecting all within its confines. While its jurisdiction is not exclusive as to all things, it does have jurisdiction in matters relating to public libraries and in this sense, the trust, if created at all, is in the township and must accordingly be held to be a public trust.

The township trustee is the administrative officer of the township. His capacity is dual in that he acts as such officer for both the civil and the school township. Only he can carry out the provisions of the trust in the name, and under the authority of the township. When he purchased and established a library under the name of "The Pitzer Library" as in said will provided, he executed the trust or, more precisely, the trust became executed. That this was done is obvious, as the library has been in existence these many years.

So far as its use by proper residents of the township is concerned, as provided by this item of the will, that is to be determined by the township trustee and those of the teachers of said township who would advise with him in relation to the same. This provision was not only indefinite and uncertain but, it is to be remembered, that the title to the bequest or to the library into which the bequest was converted, vested in the township so that under any circumstances neither the township trustee nor any part of the teachers of said township can be said to have had imposed upon them any duties in connection
with the administration of the trust. This language, it seems to me, should be construed as merely directory and not mandatory. It expressed the desire of the testator as to management and use to be made of the library. The thing to be accomplished, however, was the purchase and establishment of the library. In other words, the language as to the control and regulation must be taken as what is commonly regarded in law as merely precatory words and therefore not binding. They are unnecessary to the execution of the trust.

The testator moreover must have had this in mind, otherwise his bequest would not have been to the township. He must have intended that the library so to be established was to be a public library even though its use should be regulated by the administrative officer of the township, the township trustee. In the nature of things a conveyance of property, by deed or will, to a municipal corporation, impresses the subject-matter thereof with a public interest and it can only be administered in conformity with existing laws applicable to the municipal corporation to which it was so conveyed for the purpose for which it was so conveyed. And in this instance the testator must be held to have intended the creation of a public library to be supervised and controlled by Eagle Township through its administrative officer, the township trustee, subject to all laws applicable to public libraries in townships. Any other construction would render the language of this item of said testator's will ineffective.

From the standpoint of statutory construction, the effect of the assignment in the will is practically the same as if the testator had bequeathed the sum of $600.00 to Eagle Township for the purpose of establishing a library for the residents thereof with no provision as to the regulation or the control of same.

From a consideration of the foregoing principles it is apparent that the township trustee is not prevented by the will from treating the library as a public library for the residents of Eagle Township. And, assuming that the town of Zionsville lies wholly within Eagle Township, certainly its use is available to the citizens thereof and the residents of said township. The matter of sufficient revenue to maintain the library is beside the question. If arrangements are or can be made by which both the township and the town contribute to its support, there would be nothing objectionable therein. It only remains to ascertain if there are laws under which arrangements of this kind can be effected.
Chapter 192, Acts 1921, Burns' Revised Statutes 1933, Sec. 41-303, relating to the establishment, maintenance and operation of city, town and township libraries is sufficient broad to authorize the things here sought to be accomplished. Among other things it is therein provided in substance that if the township advisory board of the township shall levy and collect for library purposes .5 of a mill on each dollar of all the taxable property assessed for taxation in said township, exclusive of the property of such city or town lying therein already taxed for said library, and pay over the same to the treasurer of said city or town, then the township trustee shall be a member of said board together with other members whose appointments are provided for. This contemplates a joint operation by city or town and the township—in short, a town and township library. Just what has been done here in the way of organization of this library is conjectural. My opinion is that if steps were taken in conformity with the provisions of the Act cited, then the town-township library has been legally established and, presumably, so maintained. The will of the testator does not prevent or interfere with the right of the township trustee so to organize and maintain the library for the reason that the will of the testator is thereby given effect even if the language therein relating to control and operation is construed as mandatory. The organization so established or to be established carries out the wishes of the testator in this respect.

ALCOHOLIC BEVERAGES COMMISSION: Whether wholesalers may have unstamped liquor in their possession.

April 16, 1941.

Mr. Hugh A. Barnhart,
Excise Administrator,
Alcoholic Beverages Division,
225 State House,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter requesting an official opinion construing the provisions of Section 12-802 of Burns' Indiana Statutes Annotated 1935, Pocket Supplement of December, 1940, insofar as the same bears upon the question as to whether