connected disability as previously authorized by the Acts of 1937, ch. 118, § 1, as found in Burns IND. STAT. ANN., (1961 Repl.), § 64-217, and the poll tax exemption afforded to members of the armed forces of the United States previously provided by the Acts of 1953, ch. 138, §§ 1 and 2, as found in Burns IND. STAT. ANN. (1961 Repl.), §§ 64-215 and 64-216, an anomalous and ridiculous situation would result if such veterans and such servicemen were by the repeal of the poll tax exemptions applicable to them and the levy of poll taxes for the year 1965 payable in 1966, to thus become liable for such taxes for one year—the very year in which members of the Legislature voted to put an end to said tax.

In conclusion, it is suggested that a bulletin be issued by the State Board of Tax Commissioners on this subject and circulated to the county auditor of each county in the state, and to such other officers as are deemed necessary, advising them not to include poll taxes as a part of the levy for 1965 taxes payable in 1966.

OFFICIAL OPINION NO. 26

August 11, 1965

Mrs. Edith Sanderson, Executive Secretary
Indiana Board of Beauty Culturists Examiners
1023 State Office Building
Indianapolis, Indiana 46204

Dear Mrs. Sanderson:

This is in response to your letter of recent date, requesting an Official Opinion pertaining to the interpretation of the Acts of 1935, ch. 72, § 14, as amended, as found in Burns IND. STAT. ANN. (1961 Repl.), § 63-1814, which reads:

> " 'The board shall either refuse to issue or renew or shall suspend or revoke a certificate of registration for conviction of a felony shown by a certified copy of the record of the court conviction.' "

The specific questions stated in your letter are as follows:

> "1. Can a person who has committed a felony and has been sentenced to the Women's Prison and has

completed 1,000 hours of instructions in Beauty Culture be eligible for a Beauty Culturist Examination?

"2. Can a person who has committed a felony and who has been sentenced to the Indiana Women's Prison and has satisfactorily completed 1,000 hours of Beauty Culture Training and has passed an examination by the Indiana Board of Beauty Culturists Examiners be eligible for a Beauty Culturist Certificate of Registration?

"3. Providing the above eligibility is approved and the person in question has secured a Beauty Culturist Certificate of Registration, will the Board be within the confines of the laws of the State of Indiana to suspend or revoke said person's Certificate of Registration if that person is returned to the Prison for either parole or any other violations?"

It should be noted that Burns IND. STAT. ANN., § 63-1814, *supra,* employs the word "shall" in the enumeration of the specific grounds for which the Board may refuse to issue or renew or suspend or revoke a certificate or license. In its ordinary usage the "shall" is mandatory and imperative. It has been held that the word "shall" when "used in a statute will be construed to be mandatory rather than directory, unless it clearly appears from the context or from the manifest purpose of the act as a whole that the legislature intended that a different construction shall be given the word." *State ex rel. City of Indianapolis v. Brennan,* 231 Ind. 492, 109 N.E. 2d 409 (1952). The usual meaning of the word "shall" is not always utilized in the interpretation of a specific statute. It might have a permissive or mandatory meaning, depending on whether such is essential to give effect to the entire statutes or act, or to carry out the purpose of the Legislature as it appears from a general view of such statutes or act.

For a thorough consideration of your questions, attention is directed to Acts of 1935, ch. 72, § 15, as amended, as found in Burns IND. STAT. ANN. (1961 Repl.), § 63-1815. The basic parts of this statute, which is in support of my conclusion, state that:

> "No action in refusing to issue or renew or in suspending or revoking a certificate of registration for any of *these* causes shall be taken until the accused has been furnished with a statement of the specific charges against him or her, and notice of the time and place of hearing thereof. The accused may be present at the hearing in person or by counsel or both. The statement of charges and notice may be served personally upon such person, or mailed to her last-known address at least ten [10] days prior to the hearing. *If upon such hearing the board finds the charges are true, it may refuse to issue or renew a certificate of registration, or may revoke or suspend such certificate if the same has been issued.*" (Emphasis added.)

It is well to point out that in the above statute the Legislature has made use of the word "may" several times instead of "shall," thus giving the Board discretion in refusing to issue or renew, in suspending or revoking one's Certificate of Registration. The word "may" as used here should be given its usual meaning "as implying permissive or discretional, rather than mandatory action or conduct . . . ." *Dunn v. Dunn,* 257 S.W.2d 283 (1953). The statute states that the Board may only take action on a license after an individual has received notice and a statement of the charges against him and a hearing.

The words "may" and "shall" when used in a statute will sometimes be read interchangeably, as will best express the legislative intent. *Puckett v. Sellars,* 235 N.C. 264, 69 S.E.2d 497 (1952). Other cases have also considered the construction of these two words when used in statutes. "The literal meaning of the words 'may' and 'shall' is not always conclusive in the construction of statutes in which they are used; and one should be regarded as having the meaning of the other when that is required to give effect to other language found in the statute, or to carry out the purpose of the Legislature. . . ." *State ex rel. Myers v. Board of Education of Rural School Dist. of Spencer Tp., Lucas County,* 95 Ohio St. 367, 116 N.E. 516 (1917). These two cases provide authority that the legislative intent may be obtained from a general reading of the entire act. Thus is seems that such intent in

the above sections would be to grant the Board discretion in its dealings with Certificates of Registration. For the reasons stated, it is apparent that the answer to your first two questions, should be in the affirmative.

Violation of parole does not constitute a felony; however, inasmuch as it does relate back to the original offense, the Board may suspend, or revoke one's license if such original offense was a felony. Burns IND. STAT. ANN., § 63-1814, *supra,* does not specify the time or period in which a felony must have been committed; therefore, the Board in its discretion, may consider the nature of the offense and the breaking of the parole thereto, after which it may revoke or suspend.

For the reasons expressed herein, it may be concluded that the Board may, in its discretion, grant an inmate of the Women's Prison a Certificate of Registration. It may also revoke or suspend such Certificate of Registration after an individual has broken parole, provided that the offense for which the parolee was convicted and sentenced constituted a felony under the law at the time the original sentence was imposed by the Court.

OFFICIAL OPINION NO. 27

August 11, 1965

Mr. Richard L. Worley
State Board of Accounts
912 State Office Building
Indianapolis, Indiana 46204

Dear Mr. Worley:

This is in answer to your recent request for my Official Opinion concerning the use to which funds distributed from the motor vehicle highway account may be put by cities and towns. Your letter requesting the Opinion reads as follows:

> "The Legislature when enacting the Motor Vehicle Highway Account Act, Ch. 168 of the Acts of 1941, provided in Sec. 4, Burns' 36-2818, which deals with funds allocated to counties, that the distribution to