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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.

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### 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

counties could be specifically used for the 'construction of storage buildings.' However, when enacting Sec. 5, Burns' 36-2819, which deals with funds allocated to cities and towns, the Legislature was silent on this subject.

"In view of the foregoing, we respectfully request your Official Opinion as to whether cities or towns may construct, purchase or lease buildings for street department purposes from Motor Vehicle Highway funds."

In the first place it should be pointed out that the question misquotes § 36-2818. It expressly grants to counties the right and power to pay from the highway account for "*acquisition of grounds* for erection and construction of storage buildings." It makes no express statement as to how the "erection and construction of storage buildings" is to be paid for. It merely says how the "acquisition of grounds" for such purpose may be paid for.

The exact language of the two sections of the Motor Vehicle Highway Account Act under consideration is: Acts of 1941, ch. 168, § 4, being Burns IND. STAT. ANN., (1949 Repl.), § 36-2818, and Acts of 1941, *supra*, as found in Burns IND. STAT. ANN., (1965 Pock. Supp.), § 36-2819. Acts of 1941, *supra*, as found in Burns IND. STAT. ANN., (1949 Repl.), § 36-2818, reads as follows:

"The funds allocated to the respective counties of the state from the motor vehicle highway account shall annually be budgeted as provided by law, and, when distributed shall be used for construction, reconstruction and maintenance of the highways of the respective counties, including highways which traverse the streets of incorporated towns, the cost of the repair and maintenance of which prior to the tenth day of September, 1932, was paid from the county gravel road repair fund excepting where the commission is charged by law with the maintenance or construction of any such highway so traversing such streets. Any surplus existing in the funds at the end of the year shall thereafter continue as a part of the highway funds

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of the said counties and shall be rebudgeted and used as already provided in this act. The purchase, rental and repair of highway equipment, painting of bridges and acquisition of grounds for erection and construction of storage buildings, acquisition of rights of way and the purchase of fuel oil, and supplies necessary to the performance of construction, reconstruction and maintenance of highways, shall be paid out of the highway account of the various counties.”

Acts of 1941, *supra*, as found in Burns IND. STAT. ANN., (1965 Pock. Supp.), § 36-2819, reads as follows:

“All funds allocated to cities and towns from the motor vehicle highway account shall be used by the cities and towns for the construction, reconstruction, repair, maintenance, oiling, sprinkling, snow removal, weed and tree cutting and cleaning of their highways as herein defined, and including also any curbs, and the city’s or town’s share of the cost of the separation of the grades of crossing of public highways and railroads, the purchase or lease of highway construction and maintenance equipment, the purchase, erection, operation and maintenance of traffic signs and signals, and safety zones and devices; the cost of traffic policing and traffic safety, and the painting of structures, objects, surfaces in highways for purposes of safety and traffic regulation: Provided, That no city or town shall spend more than ten per cent [10%] of the funds allotted to it for the payment of the salaries of and purchase of equipment for policemen or town marshals. All of such funds shall be budgeted as provided by law.”

The answer to your question depends upon the answer to the subsidiary question—Do the express grants of authority in the last sentence of Burns IND. STAT. ANN., § 36-2818, *supra*, negate the interpretation of Burns IND. STAT. ANN., § 36-2819, *supra*, as granting similar authority by implication, it being incidental to the authority expressly granted. The subsidiary question must be answered in the negative for the following reasons:

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One of the primary purposes for adopting the Motor Vehicle Highway Account Act, was to provide funds for the State of Indiana and the various political subdivisions thereof including the cities and towns of this state to construct, reconstruct and maintain the streets and highways of the state. That legislative purpose and intent appears from § 2 of the statute, Acts of 1941, ch. 168, § 2, as found in Burns IND. STAT. ANN., (1949 Repl.), § 36-2816, which reads as follows:

“It is hereby declared to be the policy of the state of Indiana that the net amount in the motor vehicle highway account shall be budgeted for the construction, reconstruction, improvement, and maintenance of the highways of the state, policing, and for the division of safety, and a fair distribution thereof shall be made between the state highway commission and subordinate political subdivisions having jurisdiction of highways of the state, and the funds allotted shall be used in accordance with the policy herein declared and the provisions of this act, and that the funds allocated to counties, cities and towns from such motor vehicle highway account shall be budgeted as provided by law, and such county budgets shall be referred to the county council for approval, revision, or reduction.”

The terms used in the Motor Vehicle Highway Account Act are defined therein, in part, as follows: Acts of 1941, ch. 168, § 1, as found in Burns IND. STAT. ANN., (1949 Repl.), § 36-2815,

“(d) The term ‘construction’ means the planning, supervising, inspecting, actual building, draining and all expenses incidental to the construction of a highway.

“(e) The term ‘reconstruction’ means a widening or a rebuilding of the highway or any portion thereof.

“(f) The term ‘maintenance’ when used in reference to cities, towns and counties as applied to that part of the highway other than bridges, means the constant making of needed repairs, to preserve a smooth surfaced highway, adequately drained, marked and guarded by protective structures for public safety and, as to bridges, means the constant making of need-

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ed repairs to preserve a smooth surfaced highway thereon and the safety and preservation of the bridge and its approaches, together with the substructure and superstructure thereof; and such term also means and includes the acquisition and use, in any manner, of all needed equipment, fuel, materials and supplies essential and incident thereto.”

As you have noticed the act defines the terms “construction” and “maintenance” to include the acquisition, use of all needed equipment, materials, expenses and supplies essential and incidental to the construction and maintenance of highways.

It may well be that the Legislature considered the “erection and construction of storage buildings” to be so plainly incidental to “construction, reconstruction, and maintenance of the highways” that no express grant of the right to pay therefor from the highway account was considered necessary. At the same time, “acquisition of grounds” may have been considered so remote that specific mention was thought necessary.

We have not been asked whether cities and towns may expend highway funds to acquire lands on which to build buildings. We have been asked only whether they “may construct, purchase or lease buildings for street department purposes from Motor Vehicle Highway funds.” However, the purchase of a building usually, but not necessarily, includes the “acquisition of grounds” on which the building is located—which is nearly the same thing as “acquisition of grounds for erection and construction of storage buildings.”

Burns IND. STAT. ANN., (1949 Repl.), § 36-2818, and Burns IND. STAT. ANN., (1965 Pock. Supp.), § 36-2819, were initially enacted at the same session of the Legislature and they obviously both concern the same subject matter because they are sections from a single act. As stated in *State ex rel. Baker v. Grange*, 200 Ind. 506, 509, 165 N.E. 239 (1929):

“Statutes which relate to the same thing, or to the same subject, person or object are *in pari materia* and it is presumed that such acts are imbued with the

same spirit and actuated by the same policy, 36 Cyc 1151, and they should be construed together as if parts of the same act, 36 Cyc 1157, to determine their effect. *State v. Rockley* (1829), 2 Blackf. (Ind.) 249; *State v. Gerhardt* (1896) 145 Ind. 439, 44 N. E. 469, 33 L. R. A. 313; 25 R. C. L. 1060. This rule applies with peculiar force to statutes passed at the same session of the legislature—statutes contemporaneous or nearly contemporaneous. *Bishop v. Boyle* (1857), 9 Ind. 169, 68 Am. Dec. 615. and note; *Swinney v. Ft. Wayne, etc., R. Co.* (1877), 59 Ind. 205; *State, ex rel., v. Flynn* (1903), 161 Ind. 554, 582, 69 N. E. 159; *City of New Albany v. Lemon* (1925), 198 Ind. 127, 149 N. E. 350; 25 R. C. L. 1062; 36 Cyc 1151.

“A legislative body has the power, within reasonable limitations, to prescribe legal definitions of its own language, *State v. Schlenker* (1900), 112 Iowa 642, 84 N. W. 698, 84 Am. St. 360, 51 L. R. A. 347; and it may include within the concept and definition of a term ideas which may not unreasonably be included therein, though perhaps not strictly within its ordinary definition. *In re Arrigo* (1915), 98 Nebr. 134, 152 N. W. 319, L. R. A. 1917A 1116; *State v. American Surety Co.* (1911), 90 Nebr. 154, 91 Nebr. 22, 133 N. W. 365, Ann. Cas. 1913B 973; 25 R. C. L. 1049. The cardinal principle in construing a statute is to ascertain and give effect to the legislative intent, *Brown-Ketcham Iron Works v. George B. Swift Co.* (1913), 53 Ind. App. 630, 100 N. E. 860, and where, in an act it is declared that a term shall receive a certain construction, the courts are bound by that construction, though otherwise the language would be held to mean a different thing. *Smith v. State* (1867), 28 Ind. 321, 325; *State, ex rel., v. Harrison* (1888), 116 Ind. 300, 307, 19 N. E. 146; *Arnett v. State, ex rel.* (1907), 168 Ind. 180, 80 N. E. 153, 8 L. R. A. (N. S.) 1192; 25 R. C. L. 1049.”

I noted above that the legislature defined many of the terms used in the Motor Vehicle Highway Account Act. It is a rule of statutory construction that where the Legislature

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has defined the meaning of words used in a statute the judicial officers who interpret that statute are bound by the legislative definition and construction. *Adkins v. Employment Security Division*, 117 Ind. App. 132, 70 N.E.2d 31 (1946).

The express grants of authority in the last sentence of Burns IND. STAT. ANN., (1949 Repl.), § 36-2818, does not negate the interpretation of Burns IND. STAT. ANN., (1965 Pock. Supp.), § 36-2819, as granting similar authority by implication. In view of the stated legislative policy, the clear definitions of the terms used in the Motor Vehicle Highway Account Act, and the settled judicial rules of statutory construction, buildings acquired to be used exclusively in connection with the construction and maintenance of streets and highways are incidental to the proper construction and maintenance of streets and highways and, therefore, may be paid for from funds distributed to cities and towns from the motor vehicle highway account. See 1950 O. A. G., p. 65, No. 20.

In conclusion, it is my opinion that cities and towns may construct, purchase and lease buildings with funds distributed to them from the motor vehicle highway account to be used exclusively for purposes which are incidental to the purposes expressly stated in Burns IND. STAT. ANN., (1965 Pock. Supp.), § 36-2819, *supra*.

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OFFICIAL OPINION NO. 28

August 12, 1965

A. C. Offutt, M. D.  
State Health Commissioner  
Indiana State Board of Health  
1330 West Michigan Street  
Indianapolis, Indiana

Dear Mr. Offutt:

Your letter of May 5, 1965, has been received and reads as follows:

“Re: Chapter 350, Section 12, Acts 1965, Indiana General Assembly.

“Above cited act, effective 1 July 1965, changes license fee on health facilities. In the administration