

APRIL 8, 1949.

DR. WILLIAM S. CARPENTER, *President,*  
*Department of Civil Service,*  
 State House,  
 Trenton 7, New Jersey.

## FORMAL OPINION—1949. No. 27.

DEAR DR. CARPENTER:

I have your letter of the 23d ult. requesting to be advised whether the State employees of the Veterans' Emergency Housing Program, in the State Department of Conservation and Economic Development, are subject to civil service. In my opinion, they are not. The original act is Chapter 323 of the Laws of 1946. By Section 26 of that act except as to certain sections not pertinent to your inquiry, the act was to continue only until July 1, 1948, unless extended by legislative act. It was so extended in 1948 by Chapter 12 of the laws of that year, and I note that by Assembly Bill No. 3 of the current session, now pending, there will be a further extension, if the same becomes a law, to July 1, 1950.

From the foregoing, it will be seen that Chapter 323 of the Laws of 1946 is to expire by its own limitation and, in my opinion, the employees of that department not now under civil service or under tenure by Chapter 435 of the Laws of 1948, are temporary employees and in nowise subject to the jurisdiction of the Civil Service Commission.

Very truly yours,

THEODORE D. PARSONS,  
*Attorney General,*

By: THEODORE BACKES,  
*Deputy Attorney General.*

TB:B

APRIL 8, 1949.

DR. WILLIAM S. CARPENTER, *President,*  
*Department of Civil Service,*  
 State House,  
 Trenton, New Jersey.

## FORMAL OPINION—1949. No. 28.

DEAR DR. CARPENTER:

I have your memorandum of the 24th ult. calling my attention to the provisions of Section 8 of Chapter 245 of the Laws of 1946 relative to the employees of the Society for Establishing Useful Manufacturers now under the control of a commission of the City of Paterson. That section provides that the commission may employ a general manager, engineers, a secretary, counsel, and such other engineering, clerical, legal, accounting and other assistants as it may deem necessary to carry out

the provisions of this act, and that the provisions of Title 11 (Civil Service) shall be construed to extend to all the officers and employees of the commission with the exception of the members of the commission, the general manager, secretary, counsel and engineers. I have also noted the provision in the second paragraph of Section 8 that in any employments, the commission shall give preference, wherever possible, but in its absolute discretion, to the persons employed by the owner of the property so acquired by the municipality, having in mind the fitness of such employees for the performance of the duties to be assigned to them, etc.

There is nothing in this section which indicates that the Civil Service Commission shall blanket into the civil service the employees of the former Society, but as the provisions of Title 11 by the express language of the statute shall be construed to extend to all the employees other than those specifically excluded, I conclude that they are in the classified service subject to the jurisdiction of your commission.

I am also of opinion that all employees appointed after May 2, 1946, the effective date of the act in question, are subject to the jurisdiction of your commission.

Very truly yours,

THEODORE D. PARSONS,  
*Attorney General,*

By: THEODORE BACKES,  
*Deputy Attorney General.*

TB:B

APRIL 11, 1949.

HONORABLE JOHN J. DICKERSON,  
*State Treasurer,*  
State House,  
Trenton, N. J.

FORMAL OPINION—1949. No. 29.

DEAR TREASURER:

I acknowledge receipt of your inquiry in which you inform me that B, a licensed cigarette distributor in this State, has requested a ruling from the Cigarette Tax Bureau as to the following proposal:

B intends to enter into a contract with N, a corporation operating on a co-operative plan, whereby the N corporation, through its employees, would solicit the cigarette business of its member drug stores and transmit the orders for same to B who would deliver directly to the retail stores and assume the credit risk thereon. N has never previously engaged in the business of selling or arranging for the sale of cigarettes to its member stores.

The plan contemplates the payment of a commission in the sum of 2½% to the N corporation on all purchases made by the member stores. I am further informed that N distributes, in the usual course of its business practice, 65% of its net profits to its co-operative members, which distribution is predicated on a formula which takes into consideration the proportionate purchases made by each store. However, in this