operate with any other state department or any state or local authority in detecting crime, apprehending criminals and preserving law and order; but the State Police shall not be used as a posse in any municipality except upon order of the Governor when requested by the governing body of such municipality.

The Military Police have authority on a post, camp, station or reservation over all persons; in other areas only over military personnel. They would not have any jurisdiction over civilians at the Wright Aeronautical Plant (a private corporation) and would have no right to request State Police for assistance in the enforcement of rules to protect its property.

The Military Police are vested with such powers of arrest or confinement over persons subject to military law as are provided by army regulations. See Army Regulations 600-355; see Articles of War 2.

Ordinarily a request from the Military Police for assistance cannot be honored. However, a request from a municipal authority (Wood Ridge, N. J.) where the military police are protecting property, to the State Police for assistance if same is necessary, will meet with approval under the law authorizing State Police to cooperate with local authority in preserving law and order. The preservation of law and order in such a municipality is clearly distinguishable from the use of State Police as a posse. Therefore it is not necessary to obtain an order from the Governor.

In the event of an arrest by a state trooper, the offender would be tried by civilian and not military courts. Only persons subject to military law are subject to trial by military tribunals. See Articles of War 2.

I trust the above answers the questions raised in your letter.

Respectfully submitted,

THEODORE D. PARSONS,
Attorney General.

By: OSIE M. SILBER,
Deputy Attorney General.

oms;d

JANUARY 31, 1950.

THE HONORABLE LLOYD B. MARSH,
Secretary of State,
Trenton, New Jersey.

FORMAL OPINION—1950. No. 11.

DEAR SIR:

This opinion is rendered in response to your letter of January twenty-sixth, in which you state that the "county clerks are making preparations for the 1950 primary and general elections, and several of them have raised the question whether the office of coroner was abolished by the Constitution of 1947 or still exists."

We advise you that the office of coroner was not abolished by the Constitution of 1947; that such office still exists, although the continued existence thereof is now

wholly dependent upon the will of the Legislature; and that until the provisions of Section 40:40–1 of the Revised Statutes (formerly adjunctive and implemental to our fundamental law but still in force even though under our revised fundamental law the office of coroner is no longer a constitutional office) are superseded, altered or repealed, coroners are to be elected in the respective counties in the same manner, in the same number, and for the same term (but not subject to the former constitutional restriction that three years must elapse before they can be again capable of serving) as before the taking effect of the Constitution of 1947.

The conclusions hereinabove expressed have been reasoned as follows:

The Constitution of 1844 (Article VII, Section II, Paragraph 6) made fundamental provision for the election and term of office of coroners, and imposed a restriction that three years must elapse before "they can be again capable of serving." Adjunctive and implemental to this fundamental provision, there were enacted provisions of law which, at the time of the taking effect of the Constitution of 1947, were embraced within section 40:40–1 of the Revised Statutes, as follows:

> There shall be elected in each county three coroners, who shall be elected at a general election for three years, and who shall be inhabitants of the county. If a vacancy shall occur in any such office it may be filled by appointment by the governor, and the commission of the appointee shall expire at the next general election thereafter, at which time such vacancy shall be filled by election.
>
> The commissions of all coroners elected at a general election shall bear date and take effect on the Wednesday after the first Tuesday succeeding the general election, and their terms of office shall expire on the first Tuesday after the third succeeding general election.

The Constitution of 1947 makes no mention whatsoever of coroners. Thus the office of coroner is no longer a constitutional office.

Article XI, Section I, Paragraph 3, of the Constitution of 1947 provides that:

> All law, statutory and otherwise, all rules and regulations of administrative bodies and all rules of courts in force at the time this Constitution or any Article thereof takes effect shall remain in full force until they expire or are superseded, altered or repealed by this Constitution or otherwise.

The Constitution of 1947 did not specifically abolish the office of coroner; and, in our view, there is no provision of that instrument which can be construed as superseding, altering or repealing section 40:40–1 of the Revised Statutes (above recited) so far as the same relates to the election and term of coroners in each county and the number thereof to be elected. Moreover, a search has revealed no statutory provision enacted since the taking effect of the Constitution of 1947 (or any Article thereof) by force of which any of the pertinent provisions of section 40:40–1 are made to expire or are superseded, altered or repealed. Thus, said section (R. S. 40:40–1) is still in full force; and the office of coroner still exists, although the continued existence thereof is now wholly dependent upon the will of the Legislature.

Therefore, by virtue of the continued force of our pertinent statute law coroners are to be elected in the respective counties in the same manner, in the same number, and for the same term as before the taking effect of the Constitution of 1947. However, we direct your attention to the fact that the restriction contained in the Constitution of 1844 (that three years must elapse before coroners can be again capable of serving) is not contained in our statute law.

Not without giving full consideration to that provision of the Constitution of 1947 (Art. VI, Sec. VI, Par. 1) which enjoins the appointment by the Governor, with the advice and consent of the Senate, of "judges of the inferior courts with jusisdiction extending to more than one municipality," have we expressed ourselves respecting the continued validity of the statutory provision calling for the election of coroners. We are fully aware of the functional significance of the office of coroner, of the fact that the coroner's jurisdiction is countywide, and of the historical reference to the coroner's inquest as the "coroner's court."

But the "coroner's court" (if such his inquest be) is certainly not a court of judicature where a controversy between parties is heard and determined. The proceedings there are merely investigatory and preliminary. And however true it may be that in some respects the coroner is a judicial officer, yet his "court" and his power are not of the nature contemplated by Article VI, Section I, Paragraph 1, of the Constitution of 1947, which provides:

> The judicial power shall be vested in a Supreme Court, a Superior Court, County Courts and inferior courts of limited jurisdiction. The inferior courts and their jurisdiction may from time to time be established, altered or abolished by law.

In *Bradley* vs. *Town of Bloomfield,* 85 N. J. L. 506 (Supreme Court, 1944), Mr. Justice Bergen, who delivered the opinion of the court, said:

> . . . The word "court" has generally a well recognized meaning in this State, which is that part of the government of the State vested with the judicial power necessary to the administration of justice, and whose duty it is to apply the law to controversies brought before it. . . .

Very truly yours,

THEODORE D. PARSONS,
Attorney General.

By: DOMINIC A. CAVICCHIA,
Deputy Attorney General.

FEBRUARY 1, 1950.

HON. CHARLES R. ERDMAN, JR., *Commssioner,*
Dept. Conservation & Economic Development,
520 East State Street,
Trenton, New Jersey.

FORMAL OPINION—1950. No. 12.

DEAR SIR:

I have your communication of the 26th ult. stating that you desire to promote a veteran employee of your department from his position as Veterans' Loan Representative to Assistant to the Chief, Bureau of Veterans' Loans; that the veteran now has the protective features conferred by Chapter 435 of the Laws of 1948.