

become a law, notwithstanding the failure of the Governor to sign it within the period last stated, unless at or before noon of that day he shall return it with his objections to the house of origin at a special session of the Legislature which shall convene on that day, without petition or call, for the sole purpose of acting pursuant to this paragraph upon bills returned by the Governor.

And Article IV, Section IV, paragraph 2, prescribes in part that a majority of all the members of each house

shall constitute a quorum to do business, but a smaller number may adjourn from day to day . . .

In your letter you ask specifically: "Can each house properly recess from July 8 each day until July 17 without placing in jeopardy the legality of any action that may be taken on July 17?" In view of the constitutional provision, above recited, that a smaller number than a quorum may adjourn from day to day, the members assembled (less than a quorum) must adjourn daily until a quorum is present. In other words, adjournment cannot be taken to a day other than the succeeding day. However, Sunday is not to be deemed a day for this purpose, and adjournment on Saturday will be until the Monday next succeeding.

It is further our opinion that the Legislature will be duly convened for the session only when a majority of the members of both houses have assembled for the first meeting thereof. In other words, one house, a quorum being present, cannot proceed to the business of the session unless a quorum is also present in the other house.

Concluding, we point out that the absence of a quorum on July 8th will in no way affect the return of any bill vetoed by the Governor, provided he returns the same "at or before noon" of that day; and we advise that, if a quorum be not present, due record of the return of all vetoed bills be made in the journal of the proper house for that day, but we caution that the veto messages of the Governor are not to be opened and spread upon the journal until such time as, a quorum being present, the house may proceed to do business.

Very truly yours,

THEODORE D. PARSONS,
Attorney General,

JUNE 26, 1950.

HON. FRED V. FERBER, *Director,*
Division of Purchase and Property,
Department of the Treasury,
State House,
Trenton, New Jersey.

FORMAL OPINION—1950. No. 44.

MY DEAR MR. FERBER:

I have your letter on the 20th instant requesting my opinion whether the operation of the cafeteria in the new State Highway building is a function of your department or a function of the State Highway Department. This necessitated an examination

of the various laws applicable to this subject and such examination has led me to the conclusion that the operation of the new Highway building is under your jurisdiction as Director of the Division of Purchase and Property. My reasons therefore are as follows:

By Chapter 10 of the Laws of 1949 an appropriation of \$1,700,000 was made for a new highway building at Fernwood, Ewing Township. Section 1 of that act reads as follows:

The Director of the Division of Purchase and Property in the Department of the Treasury, in co-operation with the State Highway Commissioner, is hereby authorized and directed to construct and equip such building as may be necessary for the housing and accommodation of the various divisions of the State Highway Department operating in the city of Trenton on land in the Township of Ewing, in the County of Mercer, now owned by the State of New Jersey, commonly known as Fernwood Service Station, a portion of which is now occupied by the State highway service buildings. For said purpose the sum of one million seven hundred thousand dollars (\$1,700,000.00) is hereby appropriated from State highway revenues.

R. S. 52:20-7 (State House Commission act) reads as follows:

"The commission shall have custody of the state house, the property contained therein and the adjacent public grounds and all buildings owned by the state, including the state barracks, which are used by the departments, agencies and officials of the state in connection with the conduct of the state's business, and shall lease from time to time such office space as may be required for the conduct of the state's business at such terms and under such conditions as it may deem appropriate."

The powers and duties conferred by the section last quoted were transferred to the Division of Purchase and Property and to the Director thereof by section 12 of chapter 112 of the laws of 1949. By section 52:20-20 the powers and duties conferred on the State House Commission by that section were likewise transferred by said section to the Division of Purchase and Property and its Director. That section (R. S. 52:20-20) authorizes the appointment of a custodian of the State House, a superintendent of the state office building and state house annex, and authorizes the assignment of said officials to "such other buildings as may be acquired for state use, and the public grounds surrounding the state house and state buildings."

The question has been asked — what about other State buildings, such as those under the control of the Department of Institutions and Agencies, the State Board of Education, and the State Police.

By R. S. 30:1-7 the general jurisdiction of the institutions under the control of the Department of Institutions and Agencies is conferred by R. S. 30:1-7 upon the State Board and as the statute states "to the end that they shall be humanely, scientifically, efficiently and economically operated."

As to the State Board of Education, the normal schools and state teachers' colleges are under the jurisdiction of the Commissioner of Education (R. S. 18:16-20) as amended in 1947, Chapter 148, p. 644, sec. 31.

As to the State Police, they maintain no cafeteria. What they do maintain is what the statute calls a "mess" for which the superintendent is authorized to employ cooks and civilian help, (R. S. 53:1-24). As stated, no cafeteria is maintained by

the State Police and the food that is served is, in fact, served as it has been for many years, in one of the old buildings at Wilburtha, and all buildings are serviced by a janitor and helpers.

Now, as to the State armories which, of course, are State buildings, by R. S. 38:2-17 the Quartermaster General (c) was charged with and had the direction of "The construction, alteration, maintenance and repair of armories, buildings and utilities used or intended to be used by the militia." These powers were transferred to and now vested in the new Department of Defense by section 2 of chapter 82 of the Laws of 1948.

The conclusion which I have reached is that the new highway building at Fernwood is under the jurisdiction of the Director of Purchase and Property. My reasons are as follows: The act of 1949 first above set forth provides that the new building shall be "for the housing and accommodation of the various divisions of the State Highway departments operating in the City of Trenton." As is well known the operation of that department for years has been carried on in the State House Annex and if the Legislature had directed that the new building be erected on land owned by the State directly west of the State House Annex, could any doubt arise as to who had jurisdiction of the new structure? I think not. Furthermore, an examination of the provisions of the State House Commission act likewise referred to hereinabove indicates clearly that with respect to other buildings for housing the working force of a department or division of the government, the jurisdiction likewise is in the Director of Purchase and Property. This is clearly demonstrated when we look at the provisions of R. S. 52:20-20 which authorize the State House Commission to appoint a custodian of the State House and a Superintendent of the State office building and State House Annex and authorizes the assignment to these officials of such other buildings as may be acquired for State use.

As I view the situation, the Legislature never contemplated that all buildings owned by the State should be under the sole jurisdiction of the Director of Purchase and Property but that with respect to buildings owned by the State and used for office purposes, the clear intention was that such buildings should be under the jurisdiction of that official.

Very truly yours,

THEODORE D. PARSONS,
Attorney General,

JULY 10, 1950.

THE HONORABLE SANFORD BATES, *Commissioner,*
Department of Institutions and Agencies,
State Office Building,
Trenton, New Jersey.

FORMAL OPINION—1950. No. 45.

MY DEAR COMMISSIONER BATES:

You desire to be advised concerning the effect of the provisions of Chapter 315, P. L. 1950, approved July 6, 1950.

This statute removes the present requirement in New Jersey that a prisoner committed to the State Prison shall serve commutation time previously granted him