

jury dismisses a charge because it seems trivial; sometimes the trial jury must acquit a guilty person because the evidence does not establish guilt beyond a reasonable doubt. If a person be lawfully arrested and fingerprinted, the police are justified in keeping the fingerprints for possible use in the future even though no indictment is found. But in the absence of statute, discretion in the matter belongs to the police. This is cited in *Fernicola vs. Keenan*, 136 Eq. 10.

Under the above law and decisions of our courts, it is my opinion that the police are not bound to return fingerprints or records of any person taken in accordance therewith. It is their duty to retain them in their files.

Very truly yours,

THEODORE D. PARSONS,  
*Attorney General.*

By: ROBERT PEACOCK,  
*Deputy Attorney General.*

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NOVEMBER 28, 1950.

MR. WALTER R. DARBY,  
*Director of Local Government,*  
Trenton, New Jersey.

FORMAL OPINION—1950. No. 80.

DEAR DIRECTOR:

Receipt is acknowledged of your memorandum of November twenty-second in which you request an opinion on the following question: "If the commission form of government is adopted in a township and the township has more than one fire district within its territory, upon the adoption of commission form of government, are the fire districts automatically extinguished or do they continue to operate as theretofore?"

It is our opinion that when a township in which there are fire districts adopts the commission form of government, such districts are not ipso facto abolished (automatically extinguished).

The creation and abolition of fire districts in townships are specifically provided for in R. S. 40:151-1 *et seq.* The commission form of government law provides (R. S. 40:71-9) in part as follows:

Upon the adoption of chapters 70 to 76 of this title (section 40:70-1 *et seq.*), and the organization of the commissioners first elected, the governing body or bodies and all other boards and bodies whether state or local municipal agencies then existing in the municipality, except the board of education and the district court or courts, shall be ipso facto abolished and the terms of all councilmen, aldermen and all other officers, whether elective or appointive, shall immediately cease and determine, and all the powers and duties devolved by law upon such boards and bodies shall pass to, vest in and be performed by the board of commissioners elected under the provisions of said chapters 70 to 76, but nothing in this section contained shall prohibit the creation of subordinate boards authorized by section 40:72-7 of this title.

The board of commissioners shall have and exercise all the powers granted or to be granted to the boards and bodies supplanted by it, by laws enacted subsequent to the organization of said board, unless such power is expressly withheld.

To us it is clear that the adoption of commission form of government does not ipso facto abolish fire districts but does ipso facto abolish boards of fire commissioners, and that all the powers and duties devolved by law upon such boards pass to, vest in and are to be performed by the board of commissioners elected under the commission form of government law or by such subordinate boards as may be appointed pursuant to the warrant of R. S. 40:72-7. In short, the fire districts continue until such time as they are abolished, by purposeful action in accordance with applicable provisions of law, or by operation of law (see R. S. 40:151-1 *et seq.*).

Very truly yours,

THEODORE D. PARSONS,  
*Attorney General.*

By: DOMINIC A. CAVICCHIA,  
*Deputy Attorney General.*

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NOVEMBER 29, 1950.

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

FORMAL OPINION—1950. No. 81.

MY DEAR MR. FERBER:

I have your letter of the 15th inst. requesting my opinion whether under the \$25,000,000 for new institutional buildings you must take into consideration the fixture and loose equipment of the projects.

The answer is yes.

The matter is controlled by Chapter 3 of the Laws of 1949 authorizing the creation of a debt of the State in the sum of \$25,000,000 for said purposes. This act, as you know, being for the creation of a debt of the State, was required under the Constitution (Article VIII, Section II, paragraph 3) to be submitted to the people for their assent, which was done at the last general election and assented to. As you also know, the \$25,000,000 of bonds were recently issued and sold. This being so and the debt being outstanding the act creating the debt (Chapter 3 of the Laws of 1949) is irrevocable until the debt is paid and the moneys raised by authority of the 1949 Act must be applied only to the specific objects stated therein. We only have