

to the Federal Government. Thereafter, the Federal service was terminated and the records, facilities and personnel on temporary leave, including the prosecutor, were returned to the State service. The prosecutor, in order to uphold his civil service status contended that he continued to be an employee of the State while on "temporary loan" to the Federal Government. The court held that workers temporarily on loan to the Federal government, being compensated for their labors by the Federal Government, were not, while in Federal service "also employees of the State" as they were not subject to State control, while thus assigned.

The fact that the applicant before us is paid by the check or warrant of the State of New Jersey, has, in my opinion, no effect whatsoever on the situation. This is simply an administrative procedure adopted by the Commission and the State of New Jersey to facilitate transaction of the joint commission's fiscal affairs, and to provide administrative controls over the disbursement of the appropriation.

In performing the administrative or ministerial act of making payments and disbursements for the joint commission, the State of New Jersey is performing merely a fiscal service for the joint commission, without affecting, in any manner, Mr. Sipler's status.

Very truly yours,

THEODORE D. PARSONS,
Attorney General.

By: DANIEL DE BRIER,
Deputy Attorney General.

ddb:b

JULY 2, 1952.

HONORABLE WALTER T. MARGETTS, JR.,
State Treasurer,
Trenton 7, New Jersey.

FORMAL OPINION—1952. No. 15.

DEAR MR. MARGETTS:

Receipt is acknowledged of your request, transmitted through Mr. de Valliere, for an opinion as to whether the issuing officials (comprised of the Governor, the State Treasurer and the Comptroller) named in P. L. 1951, c. 340, "An act authorizing the creation of a debt of the State of New Jersey by the issuance of bonds of the State in the sum of fifteen million dollars (\$15,000,000.00) for State teachers' college buildings," etc., may issue bonds under said act prior to an actual legislative appropriation.

The answer is "No."

Section two of the act under consideration (P. L. 1951, c. 340), provides that bonds in the sum of \$15,000,000.00 are authorized "for State teachers' college buildings, their construction, reconstruction, development, extension, improvement, equipment and facilities for the education of teachers as follows: for the construction, reconstruction, development, extension, improvement and equipment of State teachers' college buildings, and for the appurtenances thereto, and for acquisition of land for said purposes, if necessary." However, the same section prescribes that such con-

struction, reconstruction, development, extension and improvement, and such acquisition of equipment and facilities, "shall proceed pursuant to appropriations thereof in the manner provided in section thirteen" of the act. And section thirteen, specifically dedicates the moneys in the State Teachers' College Buildings Construction Fund (to be comprised of proceeds from the sale of bonds, etc., as directed in section twelve) to the purpose for which the bonds are authorized, and prescribes that no moneys from said fund "shall be expended except in accordance with appropriations, from said fund, made by law."

The obvious intendment of these provisions is that the various projects contemplated by the act and for which money is to be raised by the sale of bonds are to be undertaken only after allotments, by way of appropriations, are made by law. Moreover, section four of the act provides that the bonds "shall be issued from time to time as money is required for the purpose aforesaid, as the issuing officials * * * shall determine." Obviously, no money will be required unless and until the Legislature has acted in the matter.

Very truly yours,

THEODORE D. PARSONS,
Attorney General.

By: OLIVER T. SOMERVILLE,
Deputy Attorney General.

OTS:meb

JUNE 26, 1952.

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

FORMAL OPINION—1952. No. 16.

DEAR COMMISSIONER BATES :

You have inquired concerning the possibility of utilizing certain moneys from the Inmates' Welfare Fund at the State Prison to retain the services of an attorney to act for and on behalf of the prisoners in the matter of presenting writs of habeas corpus to the courts and with respect to furnishing legal advices on their problems.

It is our opinion and we are obliged to inform you that the statutes as they now exist do not permit this type of expenditures from the two such funds established by law.

One of the laws relating to the subject matter is found in R. S. 30:4-15, wherein it is provided that the board of managers of any institution may maintain a commissary or store for the sale of commodities, and it is stated therein that "Any profit accruing may be used by the board for recreational entertainment or other like purposes." It is too obvious to require comment that these moneys cannot be so expended, for the retention of the professional services of an attorney are certainly not in the category of "recreational entertainment or other like purposes."