

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 intentment 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:meh

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."

The second statute dealing with the question is R. S. 30:4-67.1, which permits the chief executive officer of any institution to deposit and maintain the funds of all inmates in a general account and any interest paid thereon by a bank or trust company may be utilized by the board of managers "for the use, benefit and general welfare of the inmate population as a whole."

We cannot find as a fact that the use of these funds to pay for the services of an attorney would come within the quoted limitation placed upon the fund by the Legislature. There are countless inmates in confinement, and there will be many more in the future, who have no need to consult counsel either because the legal points involved in their cases have been settled by the decisions of our courts or because no legal problem is presented by the form of their sentence. While it is true that a decision favorable to one prisoner would operate beneficially to all prisoners sentenced under similar circumstances, we believe that such decisions touch but a minority number of all prisoners in confinement and that it is not the type of expenditure which the Legislature intended should be made from these funds.

For the above reasons, we are obliged to inform you that the moneys in either of these funds cannot be utilized as requested by the committee of inmates.

Very truly yours,

THEODORE D. PARSONS,
Attorney General.

By: EUGENE T. URBANIAK,
Deputy Attorney General.

ETU:HH

AUGUST 13, 1952.

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

FORMAL OPINION—1952. No. 17.

MY DEAR COMMISSIONER BATES:

You have inquired concerning the interpretation to be made of R. S. 44:7-5d.(2) as amended by chapter 24, P. L. 1952.

Specifically, you desire to be advised whether grants of financial assistance, contemplated by chapter 24, P. L. 1952, can be made to persons who are patients in general hospitals owned by the several municipalities.

It is our opinion and we advise you that such payments can be made to individuals otherwise qualified and eligible to receive Old Age or Disability Assistance even though they may be patients in municipally-owned general hospitals.

An examination of chapter 24, P. L. 1952, discloses that certain limitations are contained therein upon payments of this type of assistance to persons otherwise qualified who are hospitalized in certain types of medical institutions. The act clearly precludes such payments to persons who are patients in tuberculous sanatoria or hospitals for treatment of mental diseases. There is a further prohibition in the section of the law under construction against making such payments to persons hospitalized in medical institutions eligible to receive funds from any one of the several counties or municipalities as provided in chapter 5, Title 44, Revised Statutes.