

JANUARY 27, 1956

HON. ROBERT S. FINLEY
Acting State Treasurer
State House
Trenton, New Jersey

HON. DWIGHT R. G. PALMER
Commissioner
New Jersey State Highway Dept.
1035 Parkway Avenue
Trenton, New Jersey

MEMORANDUM OPINION—P-6

GENTLEMEN:

You have requested our opinion as to whether, under the statutes creating it, the New Jersey Highway Authority has the power to construct the proposed "Thruway feeder road" from Paramus to the New York State line.

That question was heretofore answered in the affirmative in Attorney General's Formal Opinion 1952 - #28 written by Deputy Attorney General Benjamin C. Van Tine for Attorney General Theodore D. Parsons under date of September 15, 1952.

That opinion reads in part as follows:

"On behalf of the New Jersey Highway Authority, you have requested an opinion on three certain questions concerning the interpretation and application of the New Jersey Highway Authority Act (P.L. 1952, ch. 16) and the related act which provides for the guarantee of bonds of the New Jersey Highway Authority by the State of New Jersey in a principal amount not exceeding \$285,000,000 (P.L. 1952, ch. 17). In substance, the questions relate to the powers of the New Jersey Highway Authority. The questions, together with my answers thereto, are set forth herewith:

1. Q. Whether the northernmost limit of the Garden State Parkway must be at Paramus or Ridgewood or whether the New Jersey Highway Authority is authorized to include, as a part of the Garden State Parkway project, construction made northerly of such designated points in order to connect with other through arteries?

A. P.L. 1952, ch. 16, section 20 authorizes the construction of a project to be known as 'The Garden State Parkway', beginning at State Highway Route No. 17 in Paramus or Ridgewood. Whether any construction can be undertaken northwardly of such designated points depends upon whether, in the opinion of the New Jersey Highway Authority, such construction will create or facilitate access to the Parkway and increase the use thereof.

It is provided by P.L. 1952, ch. 16, section 5(n) that the Authority shall have the power:

'To construct, maintain, repair and operate any feeder road * * * which in the opinion of the Authority will increase the use of a project * * *'

A feeder road is defined in section 3(g) of ch. 16 as follows:

'Feeder road' means any road which in the opinion of the Authority is necessary to create or facilitate access to a project.'

That a 'feeder road' is itself a part of a project is shown by section 15 of ch. 16 which provides in part as follows:

'Each feeder road or section thereof acquired, constructed or taken over in connection with a project by the Authority shall for all purposes of this act be deemed to constitute part of the project, * * *'

In my opinion, if the New Jersey Highway Authority determines that a 'feeder road' northwardly of Paramus or Ridgewood will create or facilitate access to the Garden State Parkway and will increase the use thereof, the Authority is presently empowered to construct, maintain, operate and repair such 'feeder road' as a part of the project to be known as the 'Garden State Parkway,' authorized by P.L. 1952, ch. 16, section 20.* * *'

We concur in the quoted conclusion of Mr. Van Tine.

It should be noted that it was also ruled in Formal Opinion 1952 - #28 that under section 15 of P. L. 1952, ch. 16 (N.J.S.A. 27:12B-15) no toll could be charged for transit between points on a feeder road constructed under the act. To give the Authority power to charge tolls on feeder roads more than six miles in length, the Legislature, by P. L. 1953, c. 224, amended section 15 of the original act (N.J.S.A. 27:12B-15) so that it now reads in part as follows:

"* * * no toll shall be charged for transit between points on any public highway taken over as a feeder road or on any feeder road of less than six miles in length constructed by the Authority, * * *"

That the proposed feeder road is to be somewhat more than eight miles in length does not affect the Authority's power to construct it, for by P. L. 1953, c. 224, the Legislature recognized that feeder roads may be more than six miles in length; it authorized toll charges for transit between points on a feeder road only where it was more than six miles in length.

Very truly yours,

GROVER C. RICHMAN, JR.
Attorney General

By: HAROLD KOLOVSKY
Asst. Attorney General

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