

Opinion No. 23-3659

January 10, 1923

BY: JOHN W. ARMSTRONG, Assistant Attorney General

TO: Requested by: Justiniano Baca, Secretary Capitol Custodian Committee, Santa Fe, New Mexico.

Capitol Custodian Committee Not Authorized to Insure Uncompleted, Unoccupied and Unaccepted Building, the Same Being in Process of Building.

OPINION

{*4} Replying to your inquiry relative to the matter of the Capitol Custodian Committee's taking out insurance to the amount of \$ 160,000.00 on the uncompleted, unaccepted extension to the Capitol now in process of building, we will say that apparently the committee has no such authority.

{*5} We do not have before us any contract relating to the construction of the Capitol extension but according to information received by our office from you, the Capitol Addition Committee agreed with contractors to carry a proper amount of insurance on same as the building proceeded. Payment for this insurance by the Capitol Addition Committee was doubtless a part of the consideration taken into account by the builder at the time of making his bid. Chapter 81, Laws of 1921 empowers said Capitol Addition Commission to do any and all acts necessary and proper in and about the construction of said addition. Said Chapter provides also that said Commission shall have full power and authority to draw its voucher for the payment of all indebtedness contracted in and about said work and building. The Capitol Addition Commission would be authorized under the provisions of said Chapter to construct and pay for the insurance in proper amounts as the building proceeded. The contract probably provides that such insurance shall be taken out in the name of the contractor but paid for by said Capitol Addition Commission.

Section 13, Chapter 81, Laws of 1921, provides that when the addition is completed it shall be inspected by the Governor, State Engineer, State Auditor and State Treasurer and if found to be in accordance with the plans and specifications, it shall be accepted. After acceptance, we think the Capitol Custodian Committee would be the proper authority to place the insurance, this authority being placed in said last named Committee under the provisions of Secs. 2873 and 5393, Revised Code of 1915.

Under the facts furnished by you, and under the law we shall say that the matter of the insurance of said addition and paying for same is not within the province of the Capitol Custodian Committee until after acceptance of the building by the proper authorities.