

Opinion No. 43-4367

August 17, 1943

BY: EDWARD P. CHASE, Attorney General

TO: Mr. R. L. Ormsbee, State Purchasing Agent, Santa Fe, New Mexico

I have your letter of August 16, 1943, wherein you request an official opinion of this office concerning whether Section 8 of Chapter 124, Laws of 1943, or any other section in the State Purchasing Agent Act requires the sale of condemned and unneeded equipment already in use, and paid for by the department or institution, is to be handled through the State Purchasing Agent's office.

Section 8, in my opinion, refers only to property which the State Purchasing Agent may sell when such property is already in his hands. In other words, if you should order certain equipment for a particular department, and at the time of delivery it is found that the needs of such department do not require the particular articles, you should then have the power to sell such articles either to another department, or pursuant to the provisions of such section, to the highest and best bidder for cash. This section would not seem material to your question.

I call your attention to Chapter 128, Section 1 of the Laws of 1943 which provides:

"Any State Department is hereby empowered to sell or otherwise dispose of real or personal property belonging to such State Department, subject to the approval of the State Comptroller. The State Comptroller shall have the power to credit any payment received from the sale of any such real or personal property to whatever fund of such State Department as he deems appropriate." Section 2 provides:

"All laws or parts of laws in conflict herewith are hereby repealed."

Therefore, in my opinion, this section governs the disposition of unneeded equipment desired to be sold by a state department which is not in the hands of the State Purchasing Agent.

Hoping that the foregoing sufficiently answers your inquiry, I am

By HARRY L. BIGBEE,

Assistant Attorney General