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June 22, 1954
Letter Opinion
No. 54-175-L

The Honorable Robert W. Prochnow
Arizona State Senate
Capitol Building
Phoenix, Arizona

Re: Construction of an inspection
station at Sanders, Arizona

Dear Senator Prochnow:

This letter is in reply to your letter request of June 21, 1954 for an opinion, to which you attached a copy of the request of the Highway Department for an appropriation for capital outlay for "administration, engineering, maintenance and general accounts" for the 1953-54 fiscal year. Section 10-925, A.C.A. 1939, 1952 supplement contains the provision, a part of which is as follows:

"10-925. Alloting appropriations to classes and objects.--* * * No allotment or expenditure shall be made for an object not within the purpose of the appropriation, and nothing in this act shall be construed to authorize the expenditure of an appropriation for a purpose other than for which it was made. * * *"

The quoted section, a part of section 10-925, supra, was amended in 1951, and we have been unable to find any Supreme Court case interpreting the question in point as to whether or not the Highway Commission may use funds for the erection of a station at Sanders in view of the fact that the Highway Commission requested an appropriation for an inspection station at Lupton, Arizona, and not at Sanders.

It is the opinion of the Department of Law, that since the Highway Commission requested an appropriation for an inspection station at Lupton and that such request was considered by the Appropriation Committee, the use of that appropriation, or any part thereof, for a station at Sanders would be an abuse of the trust confided in the Highway Commission by the Legislature when the latter appropriated a lump sum for "Land, Buildings and Improvements", assured by the representation of the Commission as to how the funds were to be used.

The possibility of an abuse of trust of this nature was recognized by our Supreme Court in the STATE BOARD OF HEALTH v. FROMMILLER, 42 Arizona 231, wherein the Court in speaking of lump sum appropriations by the Legislature said, and we quote:

* * * This method of appropriating the

54-175-L

The Honorable Robert W. Prochnow
Arizona State Senate

June 22, 1954
Page Two

public funds is not one that commends itself, inasmuch as it is so easy to abuse the trust confided by using the funds intended for one purpose for another and different purpose, but we know of no rule that prohibits the legislature from reposing the discretion and power in such departments, institutions or offices."

Having completed an exhaustive research concerning appropriation bills and expenditures thereunder, we have come to the same conclusion as the Court in the case cited above, that there is no rule prohibiting the Legislature in placing the discretion in the department as to the manner in which the funds under a lump sum appropriation may be used. However, we are of the opinion that in view of the fact that the appropriation was requested for a specific location of an inspection station, the expenditure of such funds for any other location would be an improper expenditure.

Sincerely,

ROSS F. JONES
The Attorney General

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