

MARCH 8, 1949.

DR. WILLIAM S. CARPENTER, *President,*
Department of Civil Service,
 State House,
 Trenton, New Jersey.

FORMAL OPINION—1949. No. 4.

MY DEAR COMMISSIONER:

I have your memorandum of the 28th ult. stating that the Sheriff of Passaic County has requested your department to reclassify Process Servers as Deputy Sheriffs.

I know of no law for your so doing. The Sheriff may appoint Under Sheriffs and, among others, he may appoint Deputies, but the Process Servers, who have been classified as such under civil service, cannot, in my opinion, be designated as Deputy Sheriffs.

Very truly yours,

THEODORE D. PARSONS,
Attorney General,

By: THEODORE BACKES,
Deputy Attorney General.

TB:B

MARCH 9, 1949.

HON. JOHN H. BOSSHART,
Commissioner of Education,
 175 West State Street,
 Trenton, New Jersey.

FORMAL OPINION—1949. No. 5.

MY DEAR COMMISSIONER:

I duly received your letter of the 24th ult. with enclosure of letter addressed to me by Mr. Smith, County Superintendent of Schools of Somerset County. It appears from Mr. Smith's letter that the County Superintendent under the school law was called upon to divide the assets of the Bernards Township Board of Education with the new school district of the Borough of Bernardsville, and that included in the assets was \$1600.00 which had been voted in the February, 1947, school election to purchase land in what is now Bernardsville, but which land was in the combined school districts, and when the separation of the school districts became effective on July 1, 1948, the land had not been purchased. Mr. Smith submits for my consideration three questions, to wit:

1. Must the land be purchased as voted in February, 1947, even though it is in the new district which came into existence on July 1, 1948?

2. Should the \$1600.00 be divided as an asset and according to ratables?
3. Should the \$1600.00 be given to the new district as an asset and not be divided according to ratables?

The answer to the first question is in the negative. The direction of the legal voters was merely a naked authority which the board never exercised.

The answer to your second question is in the affirmative. The \$1600.00 must be divided as an asset according to the ratables of the two municipalities.

I understand that the \$1600.00 was not raised by a bond issue but was raised by taxation in the year 1948 and must therefore be considered as an asset.

As to question No. 3, the money is not to be given to the new district as an asset but, as I have already indicated, is to be divided according to the ratables of the two municipalities.

Very truly yours,

THEODORE D. PARSONS,
Attorney General,

By: THEODORE BACKES,
Deputy Attorney General.

TB:B

MARCH 15, 1949.

CHARLES J. SHEEHAN, *Secretary,*
New Jersey Racing Commission,
1 West State Street,
Trenton 8, N. J.

FORMAL OPINION—1949. No. 6.

DEAR MR. SHEEHAN:

I acknowledge receipt of your recent inquiry in which you request my interpretation of Chapter 33, P. L. 1948, appertaining to pari-mutuel breakage based on the following facts:

You inform me that a situation sometimes arises whereby an amount payable to a winning patron, calculated on the basis of one dollar (\$1.00), is less than ten cents (\$0.10) and that under such circumstances your commission has heretofore determined that all of the balance remaining in this particular pool constitutes breakage payable to the State. I am further informed that in such cases the track contributes a sufficient amount of money to the pool to the extent necessary in order to arrive at a ten-cent (\$0.10) distribution on the dollar. You have called my attention to the following specific example:

"After deducting commission and the amount payable in the show pool to the first and second horse, there remains in the show pool account the sum of \$2,000. \$21,000 has been bet on the particular horse to show. By arithmetic processes the track determines the amount payable by merely dividing the amount bet into the sum available for distribution to the public. By so doing * * * the moneys to be distributed over and above the amount bet amounts to