

An analysis of R. S. 13:1-1 et seq. shows the powers and duties imposed upon members of the Board of the Department of Conservation and Development. It is incumbent on the Board to make a careful inspection and make surveys of land with respect to development, protection and management, R. S. 13:1-19. It is within the province of the Board when, in its judgment, it deems that the best interests of the State would be served, even to sell or exchange any portion of the land acquired by gift or purchase, R. S. 13:1-23. The Board in its administration of lands or property acquired, has the power to install permanent improvements for the protection, development, use, maintenance thereof . . . R. S. 13:1-24.

It can readily be seen from all of the foregoing that the Department of Conservation and Economic Development has exercised sound discretion in giving the added protection to the park as aforesaid and has faithfully and diligently fulfilled the duties imposed upon it pursuant to the statute made and provided.

From all of the foregoing it is my opinion that your Department has not violated any agreement with the Stephens family by permitting the National Guard to occupy the portion of the premises herein discussed.

Respectfully submitted,

THEODORE D. PARSONS,
Attorney General,

By: OSIE M. SILBER,
Deputy Attorney General.

oms;d

June 23, 1949.

HONORABLE WALTER T. MARGETTS,
State Treasurer,
State House,
Trenton, New Jersey.

FORMAL OPINION—1949. No. 75.

DEAR SIR:

You advise that a former patient at the New Jersey State Hospital at Trenton died in that institution on or about November 2, 1931, leaving the sum of approximately \$200 on deposit in the institution.

After a year had elapsed following the death of the patient, this sum of money was turned over to the State Treasurer, pursuant to R. S. 30:4-132, which provides substantially that unclaimed personal property of deceased patients shall be held at the institution for a period of a year awaiting claim therefor and failing such claim shall be paid to the State Treasurer.

An administrator had been appointed to handle the estate of the decedent, but this fact seemed to be unknown to the institution officials; otherwise, we presume they would have paid the moneys to him. The original administrator died and a substituted administrator has recently qualified and has made claim upon you for payment to him of this sum of money. The decedent was supported partially at

the expense of the State, and the hospital now has a claim for this unpaid maintenance which is in excess of the fund on deposit.

You desire to be advised whether you should honor the claim of the administrator and make payment to him of this asset in the estate of the decedent in view of the counterclaim of the State for unpaid maintenance.

It is our opinion, and we so advise you, that you cannot make payment to the administrator of the sum of money which was turned over to your office under R. S. 30:4-132 unless and until such an item is included in an appropriation act approved by the Legislature.

This for the reason that these moneys have long since been merged with other State funds in the Treasury and "no money shall be drawn from the State Treasury but for appropriations made by law." (N. J. Constitution, Art. VIII, Sec. II, par. 2.)

In view of the foregoing, it becomes unnecessary to advise you at this time regarding the effect of the counterclaim of the State against these funds for maintenance of the decedent at a State institution.

This is a proper matter for consideration by the Legislature at the time of passage of such legislation.

Very truly yours,

THEODORE D. PARSONS,
Attorney General,

By: EUGENE T. URBANIAK,
Deputy Attorney General.

ETU:HH

July 19, 1949.

HON. J. LINDSAY DEVALIERE,
Director, Division of Budget and Accounting,
State House,
Trenton, New Jersey.

FORMAL OPINION—1949. No. 76.

DEAR DIRECTOR DEVALIERE:

This will acknowledge your communication dated July 14, 1949, asking for an opinion as to the language of the 1948-1949 Appropriations Act concerning the request made by the Highway Department for the carrying over of \$27,000 of the 1948-1949 salary appropriations to the fiscal year 1949-1950 for the purpose of paying salaries of employees to be hired in the future.

Section 1, Chapter 117, P. L. 1948, reads as follows:

"1. The appropriations herein made or so much thereof as may be necessary are hereby appropriated for the respective public officers and for the several purposes herein specified for the fiscal year ending on the thirtieth day of June, one thousand nine hundred and forty-nine. The appropriations herein made for debt service, for State aid to counties and municipalities under R 3, and for State Highway purposes under R 8, herein shall not lapse