

DECEMBER 7, 1949.

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

FORMAL OPINION—1949. No. 112.

MY DEAR TREASURER:

I have your letter of the 28th ult., with enclosures, from which it appears that one Albert B. Ari was an employee of your department during all the year 1948 and up and until the time of his death on June 26, 1949; that 5½ days of the vacation leave to which he was entitled for the year 1948 were carried over; and that had he lived until vacation time had arrived, and been granted vacation leave, in the year 1949, he would have been given a vacation leave for that year and would have had added thereto the 5½ days which he did not take in the year 1948.

It also appears that counsel for the estate of the decedent has raised the question of the right of the administratrix of his estate to collect vacation pay.

Vacation leave is provided for by R. S. 11:14-1 for all those in the classified service of civil service; and that section, among other things, directs that "Where in any calendar year the vacation or any part thereof is not granted by reason of pressure of State business, such vacation periods or parts thereof not granted shall accumulate and shall be granted during the next succeeding calendar year only."

Mr. Ari having died prior to his application for or the granting of a vacation leave for the year 1949, to which the 5½ days from the year 1948 were carried over, in my opinion no payment can be made under existing law for the vacation leave not used in the year 1948 or for any vacation leave which would have been granted in the year 1949 had he lived.

It is to be observed from the statute just referred to that a vacation leave or portion thereof not used can accumulate and be used in the next succeeding calendar year only. This necessarily leads to the conclusion that the full vacation period which Mr. Ari could have had in the year 1949 was lost by his death before vacation leave period arrived in that year.

Very truly yours,

THEODORE D. PARSONS,
Attorney General.

By: THEODORE BACKES,
Deputy Attorney General.

TB:B