

execute it. It is set forth that the warrant shall be signed by the magistrate and the defendant taken before the magistrate named in the warrant for hearing. In case of violation of 2:138-9 it is the duty of an officer having knowledge of an offense to sign the complaint and have the warrant issued and take the offender before the magistrate in the community in which the offense was committed. It is the duty of the magistrate to hear the evidence and, if a prima facie case has been made out against the defendant, he shall be committed to the county jail where the judge of the court may set bail for such offender.

In all criminal cases, the prosecutor must use all reasonable and lawful diligence for the arrest and indictment of all persons and where the arresting officer has made a prima facie case, it is the duty of the prosecutor to submit the case to the grand jury, who shall pass upon the question of whether or not there is sufficient evidence to find an indictment and bring the defendant to trial.

I trust this answers your inquiry.

Yours very truly,

THEODORE D. PARSONS,
Attorney General.

By: ROBERT PEACOCK,
Deputy Attorney General.

RP:N

NOVEMBER 14, 1950.

HON. J. LINDSAY DEVALLIERE,
Director, Division of Budget & Accounting,
State House,
Trenton, New Jersey.

FORMAL OPINION—1950. No. 74.

DEAR SIR:

I am replying to your communication of October 20, 1950, in which you advise me that for a number of years the State has been making regular yearly appropriations for municipal aid and in addition has been making supplemental appropriations for payment of deficiencies, and that when the Legislature passed the annual appropriation act for the fiscal year beginning July 1, 1950, the sum of \$3,600,000 was appropriated for subsidies to municipalities for relief costs, and that a supplemental appropriation act contained an appropriation for the fiscal year 1949-50 of \$2,202,000. These appropriations will be found in the session laws of 1950, the first on page 791, and the second on page 109.

It now appears from your communication that subsequent to the supplemental appropriation of \$2,202,000 it was ascertained that the appropriation would be insufficient by approximately \$550,000. The question which you have propounded for my consideration is whether you may permit the use of funds appropriated for the fiscal year 1950-51 to pay deficiencies incurred in the fiscal year 1949-50.

The answer is positively "no."

The annual appropriation act of 1950 (Chapter 236), to be found in the session laws of that year beginning at page 598, both by its title and section 1 thereof, makes it clear that the appropriations therein are only for the fiscal year ending June 30, 1951, and by the provisions of section 3 of that act no money is to be drawn from the treasury except for objects as in the act specified and for other purposes specially excepted in said section.

As I have indicated, the appropriation in chapter 236 covered a fixed definite period, that is the fiscal year of the State ending on the thirtieth day of June, 1951. The deficiencies existing for relief subsidies in the previous fiscal year must await further action of the Legislature by way of an additional appropriation as was done in Chapter 62 of the Laws of 1950 making good the deficiencies above referred to of \$2,202,000.

Yours very truly,

THEODORE D. PARSONS,
Attorney General.

By: THEODORE BACKES,
Deputy Attorney General.

TB:B

OCTOBER 31, 1950.

HON. CHARLES R. ERDMAN, JR., *Commissioner,*
Dept. of Conservation and Economic Development,
State House, Trenton, N. J.

FORMAL OPINION—1950. No. 75.

DEAR COMMISSIONER ERDMAN:

Your letter of October 20th is at hand in which you request an opinion as to whether or not persons permitted to dredge lands under the waters of this State require additional permits to maintain that dredging.

The law on this subject is as follows:

“Submission to board of plans for waterfront development. All plans for the development of any waterfront upon any navigable water or stream of this State or bounding thereon, which is contemplated by any person or municipality, in the nature of individual improvement or development or as a part of a general plan which involves the construction or alteration of a dock, wharf, plan, bulkhead, bridge, pipe line, cable, or any other similar or dissimilar waterfront development shall be first submitted to the board. No such development or improvement shall be commenced or executed without the approval of the board first had and received, or as hereinafter in this chapter provided.” (R. S. 12:5-3.)

Under 12:5-4 upon the presentation of plans for waterfront development, the board shall consider the same and hold meetings and give directions for such changes or alterations in the plans as it deems necessary.