

for, and that the provisions of R. S. 12:3-9 relating to the procedure to be followed where there is a grant to a "person" other than the riparian owner, is not applicable to the instant case and need not be followed.

Yours very truly,

GROVER C. RICHMAN, JR.,
Attorney General.

By. SIDNEY KAPLAN,
Deputy Attorney General.

sk;d

JULY 19, 1955.

MR. GEORGE A. LOUDEN, *Chief Clerk,*
Office of the Secretary of State,
Trenton, New Jersey.

MEMORANDUM OPINION P-20.

DEAR MR. LOUDEN:

This will confirm my oral advice to you in response to your inquiry as to whether or not you should accept for filing a proposed certificate of incorporation of "Carter Corporation", a corporation formed for the sole object of acting "as trustee or successor trustee under intervivos trusts."

As I advised you, the proposed corporation could not be incorporated under the General Corporation Law, since that law prohibits the formation thereunder of a bank or trust company (R. S. 14:2-1). The object for which the "Carter Corporation" is to be formed is within the prohibition as to trust companies (*McCarter v. Imperial Trustee Co.*, 72 N. J. L. 42, (Sup. Ct. 1905)).

The Banking Law of 1948, (R. S. 17:9A-1 et seq.) under which corporations exercising such banking or trust powers may be formed, provides in R. S. 17:9A-28 in part as follows:

"A bank which is a qualified bank shall have the following agency and fiduciary powers * * *

(9) to receive from any person and hold in trust and dispose of, by sale or otherwise, personal and real property, upon such terms as may be specified;

(10) to accept, administer, and execute all other trusts and to act in all other fiduciary capacities not herein specifically enumerated, not inconsistent with law."

R. S. 17:9A-338 provides:

"Except to the extent specifically made applicable by this act, the provisions of Title 14 of the Revised Statutes as enacted and as heretofore or hereafter amended or supplemented shall not apply to banks and savings banks."

OPINIONS

The Banking statute is exclusive, and the powers sought may only be obtained by complying with the terms of that statute. They may not be granted to a corporation organized under the General Corporation Act. (*McCarter, Attorney General v. Imperial Trustee Co.*, 72 N. J. L. 42, 44 (Sup. Ct. 1905)).

Yours very truly,

GROVER C. RICHMAN, JR.,
Attorney General.

By: HAROLD KOLOVSKY,
Assistant Attorney General.

lk:d

JULY 21, 1955.

MR. W. LEWIS BAMBRICK,
Unsatisfied Claim and Judgment Fund,
222 West State Street,
Trenton, New Jersey.

MEMORANDUM OPINION P-21.

DEAR MR. BAMBRICK:

You have requested our opinion as to whether the owner of a stolen motor vehicle has a valid claim against the Unsatisfied Claim and Judgment Fund based on an unsatisfied judgment against the person who stole same for damages sustained to such vehicle as a result of an accident occurring while the vehicle was being operated by the thief. You have asked us to assume that the owner of the motor vehicle was not covered by any insurance policy under which he could be reimbursed for his damages.

In order to resolve this problem, it is necessary to consider the purpose for which the Unsatisfied Claim and Judgment Fund Act was enacted. Although no statement was appended to the Unsatisfied Claim and Judgment Fund Act, the purpose of the legislation was obviously to protect holders of judgments in so-called "negligence" actions based upon damage to property or injury to person by means of a motor vehicle. It was designed to eliminate the economic hardship which would otherwise be sustained by a holder of such an unsatisfied judgment who incurred property damage or personal injury by the negligent operation of a motor vehicle by another. In effect, it is a corollary to the Motor Vehicle Security-Responsibility Law, N. J. S. A. 39:6-23, et seq., which provides, among other things, for the suspension of the operator's license and registration certificate of a person who has failed to satisfy a judgment rendered against him for personal injury or property damage resulting from the ownership, maintenance, use, or operation of a motor vehicle.

Although the courts of New Jersey have not yet dealt with the Unsatisfied Claim and Judgment Fund Act, several cases have considered the Motorists' Financial Responsibility Law, R. S. 39:6-1, et seq., which was the predecessor of the