

Board (now the Commissioner of the Department of Conservation and Economic Development) may provide for the use of such lands for any other purpose than the maintenance of forests. And, moreover, it may provide for the use and development of such land in the way that, in its judgment, is most proper, on terms most advantageous to the State. It seems clear that this broad grant of power includes the authority to lease mineral rights for the mining or extraction of minerals.

As to the procedure for effecting such a lease, it is first to be noted that *N.J.S.A.* 13:1B-3 confers on the Commissioner of the Department of Conservation and Economic Development the duty of administering the work of the Department and it is provided that he should "perform, exercise and discharge the functions, powers and duties of the Department through such divisions as may be established by this act or otherwise by law". *N.J.S.A.* 13:1B-3c. Secondly, we observe that the Division of Planning and Development is under the supervision of a Director who is charged with the responsibility of "administer[ing] the work of such division under the direction and supervision of the commissioner". *N.J.S.A.* 13:1B-8.

It is the opinion of this office that a lease of mineral rights for the mining or extraction of minerals from forest park reserves and reservations may be executed by the State of New Jersey acting through the Division of Planning and Development upon a determination by yourself, in the exercise of your direction and supervision of the Division of Planning and Development, that such lease is for the best interests of the State and that the welfare of the State will be advanced thereby, subject to the approval of the Governor. There is no requirement that there be bidding under *N.J.S.A.* 52:34-6, *et seq.*, *N.J.S.A.* 52:27B-67 or any other statute.

To the extent that our Memorandum Opinion to you dated February 24, 1955 is inconsistent with the opinion expressed herein, it is hereby overruled.

Very truly yours,

GROVER C. RICHMAN, JR.
Attorney General

By: HAROLD J. ASHBY
Deputy Attorney General

HJA:tb.

OCTOBER 2, 1957

COLONEL JOSEPH D. RUTTER
Superintendent, Division of State Police
Department of Law and Public Safety
West Trenton, New Jersey

MEMORANDUM OPINION—P-31

DEAR COLONEL RUTTER:

You have asked our opinion whether a complaint for a traffic violation may be made under oath before a notary public of this State.

R.R. 8:3-1(a) provides as follows:

"The complaint is a written statement of the essential facts constituting the offense charged. It may be made upon information and belief and shall

be made upon oath before any magistrate, the person in charge of any police station who is authorized to administer oaths, the clerk of any court, or any person empowered by law to take complaints. In non-traffic cases the complaint shall be in the form set out in Local Criminal Court Forms 1 or 2, printed in the Appendix of Forms and in traffic cases the complaint shall be in the form set out in Local Criminal Court Form 12, printed in the Appendix of Forms."

Since a notary public is not specifically designated as such a person before whom a complaint may be made under oath, it must be determined if a notary is "any person empowered by law to take complaints."

R.R. 8:3-1 (a), N.J.S.A. 39:5-6 and N.J.S. 2A:8-27 are the authority for those who may take a complaint for any violation of the Motor Vehicle Act. *State v. Mer-shon*, 39 N.J. Super 599, (1956) at page 601.

N.J.S.A. 39:5-6 provides as follows:

"All acts, whether in connection with the taking of complaints, issuing of process, return thereof, taking of bail for appearance or committing to custody for failure to deposit such bail and all proceedings preliminary to trial, including the arraignment, taking of plea and postponement of trial and all ministerial acts and proceedings subsequent to trial, may be performed by the clerk or deputy clerk of a magistrate, and the jurisdiction so to do with respect to a violation of this subtitle is hereby conferred."

N.J.S. 2A:8-27 provides as follows:

"Any judge of a county court, county district court or criminal judicial district court, or any clerk or deputy clerk thereof may, within the county wherein an offender may be apprehended, or any magistrate of a municipal court, any clerk or deputy clerk thereof, any officer authorized by section 2A:8-28 of this title to take bail, the chief of police or other person acting in that capacity in any municipality and the police officer in responsible charge of the police station may, within the municipality wherein an offender may be apprehended, administer or take any oath, acknowledgment, complaint or affidavit to be used in the proceeding, issue warrants and summonses, endorse warrants from other counties, and upon arrest hold the accused to bail, the offense with which he is charged being bailable, for his appearance before the superior court, the county court, the county district court, any criminal judicial district court or any municipal court, in the county at such time as he may direct."

N.J.S. 2A:2-28 confers authority upon the mayor or other chief executive officer of the municipality or the municipal clerk, and under certain circumstances recorders properly appointed, to take bail for the appearance of a defendant.

It can be seen by the above that neither of the foregoing statutes authorizes the making of a complaint under oath before a notary public.

The authority of a notary public to administer an oath is contained in N.J.S. 41:2-1 which provides as follows:

"All oaths, affirmations and affidavits required to be made or taken by law of this State, or necessary or proper to be made, taken or used in any

court of this State, or for any lawful purpose whatever, may be made and taken before any one of the following officers: The Chief Justice of the Supreme Court or any of the justices or judges of courts of record of this State; Masters of the Superior Court; Municipal magistrates; Mayors or aldermen of cities, towns or boroughs or commissioners of commission governed municipalities; Surrogates, registers of deeds and mortgages, county clerks and their deputies; City clerks; Clerks of all courts; Notaries public; Commissioners of deeds; Attorneys-at-law of this State.

"This section shall not apply to official oaths required to be made or taken by any of the officers of this State, nor to oaths or affidavits required to be made and taken in open court."

The general authority of a notary public to administer oaths does not affect the requirement of other statutes that oaths in particular cases be administered by other specified officers. See 66 C.J.S. 615.

It is our opinion that a complaint for a traffic violation cannot be properly made under oath before a notary public and must be made under oath before the persons specifically designated in R.R. 8:3-1(a), N.J.S.A. 39:5-6 and N.J.S. 2A:8-27, *supra*.

Very truly yours,

GROVER C. RICHMAN, JR.
Attorney General

By: SAUL N. SCHECHTER
Deputy Attorney General

SNS/LL

OCTOBER 9, 1957

HONORABLE T. J. LANGAN
Director, Division of Planning and Development
Department of Conservation and Economic Development
520 East State Street
Trenton, New Jersey

MEMORANDUM OPINION—P-32

DEAR DIRECTOR LANGAN:

You have asked us to advise you as to whether or not the Division of Planning and Development may establish non-ski areas on the inland waterways and other waterways under the jurisdiction of the State. We interpret your question to mean that you may wish to prohibit water skiing in designated localities, should an investigation and study on our part disclose that such action is necessary, and that you now inquire concerning your authority to do so.

Water skiing has become a popular sport and the manner in which it is engaged in has become familiar to most people. It is sufficient to say that one person, or more, is towed over water at a good rate of speed by means of a long line with distinctive attachments, one end of which is fastened to a power boat and the other end of which is held by the person being towed who is able to maintain his upright balance by the use of water skis attached to parts of his body.