

Indeed in view of the fact that "agency" is defined to "mean a redevelopment agency or a regional development agency created pursuant to this act" express inclusion of the modifying words precludes implied enlargement of this category. *Gangemi v. Berry*, 25 N.J. 1 (1957). N.J.S.A. 40:55C-5(a).

In conclusion, therefore, we are of the opinion that a Meadowlands Regional Development Agency may be created to develop the meadowlands and that municipalities which have heretofore authorized their local housing authorities pursuant to N.J.S.A. 55:14A-31 et seq. to redevelop blighted areas may participate in the creation of such an agency.

Very truly yours,

DAVID D. FURMAN
Attorney General

By: MORTON I. GREENBERG
Deputy Attorney General

JUNE 19, 1959

HON. JOHN W. TRAMBURG, *Commissioner*
Department of Institutions and Agencies
135 West Hanover Street
Trenton, New Jersey

FORMAL OPINION 1959—No. 12

DEAR COMMISSIONER TRAMBURG:

We have been asked whether an order placing a child under the guardianship of the State Board of Child Welfare pursuant to N.J.S.A. 30:4C-20 to 22 is "an order * * * terminating parental rights and * * * granting guardianship of the child to such approved agency * * *" within the meaning of R.S. 9:3-23A(3).

Ordinarily, the final hearing on a petition for adoption of a child takes place not less than one year from the date of the institution of the action. R.S. 9:3-25(A). The final hearing in such cases is preceded by a preliminary hearing, R.S. 9:3-24, and by the appointment and report of a "next friend," R.S. 9:3-25, 26. Where certain conditions are satisfied, the final hearing is held within 30 days of the institution of the action. R.S. 9:3-23(B). The third of the four conditions which must be satisfied in order to proceed summarily is:

"(3) that at least one year prior to the institution of the action the custody of the child had been surrendered to such approved agency by each parent or other person having custody of the child, and that by the terms of such surrender the approved agency had been authorized to place the child for adoption; or *that an order of judgment had been entered by a court of competent jurisdiction terminating parental rights and transferring custody of the child to such approved agency or granting guardianship of the child to such approved agency; * * **" (Emphasis added). R.S. 9:3-23(A)(3).

The State Board of Child Welfare is an approved agency as defined by R.S. 9:3-18(a). See also R.S. 9:3-19.

N.J.S.A. 30:4C-15 permits a petition to be filed seeking the commitment of a child to the guardianship of the State Board of Child Welfare in four situations:

“Whenever (a) it appears that a court wherein a complaint has been proffered as provided in chapter 6 of Title 9 of the Revised Statutes, has entered a conviction against the parent or parents, guardian, or person having custody and control of any child because of abuse, abandonment, neglect of or cruelty to such child; or (b) it appears that any child has been adjudged delinquent by a court of proper jurisdiction in this State; or (c) it appears that the best interests of any child under the care or custody of the State Board of Child Welfare require that he be placed under guardianship; or (d) it appears that the parent or parents, guardian, or person having custody and control of any child is grossly immoral or unfit to be intrusted with the care and education of such child, or shall fail to provide such child with proper protection, maintenance and education, or is of such vicious, careless or dissolute habits as to endanger the welfare of such child; * * *.”

On the completion of the hearing where the court is satisfied that the best interests of the child so require, it shall make an order “committing such child to the guardianship and control of the State Board of Child Welfare, and such child shall thereupon become the legal ward of such board, and such board shall be the legal guardian of such child for all purposes.” N.J.S.A. 30:4C-20. The order of the court committing a child to the guardianship of the State Board of Child Welfare may not in any way be restrictive “of the duties, powers and authority of such board in the care, custody, placement, welfare and exclusive guardianship of the child * * *.” N.J.S.A. 30:4C-21. The guardianship of the State Board of Child Welfare is to be “full and complete for all purposes * * *.” N.J.S.A. 30:4C-22.

The completeness of an order vesting custody in the State Board of Child Welfare is illustrated by contrast with other provisions of the statutes. Where the court may have entered an interlocutory order committing a child to the temporary guardianship of the State Board of Child Welfare, N.J.S.A. 30:4C-17, but on the final hearing determines not to enter an order of permanent guardianship, the State Board of Child Welfare is to “return the child forthwith to the parent or parents * * *,” or if the parents cannot be found, upon order of the court the child is to be placed with some other person expressing willingness to accept the child, but this “shall in no wise be construed as a grant of custody or guardianship.” N.J.S.A. 30:4C-20.

In addition to the other methods provided by the statutes “for establishing guardianship by the State Board of Child Welfare,” the board may “take voluntary surrenders and releases of custody and consents to adoption from the parent [or parents].” N.J.S.A. 30:4C-23.

From a consideration of all of these statutory provisions, it is apparent that an order pursuant to N.J.S.A. 30:4C-22 is intended to vest in the State Board of Child Welfare, rather than in the parents, the power to consent to an adoption of the child. The expression in R.S. 9:3-23, “terminating parental rights,” includes divesting the parents of power to consent to an adoption. An order establishing guardianship by the State Board of Child Welfare satisfies the requirements both of termination of parental rights and granting of guardianship in the second half of R.S. 9:3-23(A) (3), and therefore, it is not necessary to consider whether the latter statute is satisfied

by an order which might be thought of as granting guardianship but not terminating parental rights.

Therefore, the question presented is answered in the affirmative.

Very truly yours,

DAVID D. FURMAN
Attorney General

By: EUGENE T. URBANIAK
Deputy Attorney General

July 1, 1959

HONORABLE ALFRED N. BEADLESTON
12 Broad Street
Red Bank, New Jersey

FORMAL OPINION 1959—No. 13

DEAR ASSEMBLYMAN:

You have requested my opinion as to the constitutionality of proposed legislation which would revise the statutory system for the taxation of property owned by railroads.

The plan envisions that the Railroad Tax Law of 1948 be amended to afford railroads tax relief, while saving municipalities harmless from any loss of revenues. The distinctions between Class I and II railroad property would be eliminated. All real property owned by railroads would be subject to taxation to the State and for the use of the State. A single tax rate would be fixed by statute or by a State official such as the Director of the Division of Taxation acting pursuant to legislative delegation. The assessment of former Class I and II railroad property would continue to be in accordance with true value or other uniform standard. Companion legislation would direct that out of the general treasury, as provided in a general appropriation act or otherwise, moneys would be paid to the municipalities in lieu of the Class II railroad property taxes presently received under the Railroad Tax Act of 1948.

My conclusion is that properly drawn legislation would not violate any provision of the Federal or State Constitution. Two constitutional issues might be drawn in litigation attacking the proposed amendments and supplements to the Railroad Tax Law of 1948: (1) Validity under the equal protection provisions of both constitutions; and (2) validity under Article VIII, Section I, paragraph 1 of the State Constitution, which provides:

"1. Property shall be assessed for taxation under general laws and by uniform rules. All real property assessed and taxed locally or by the State for allotment and payment to taxing districts shall be assessed according to the same standard of value; and such real property shall be taxed at the general tax rate of the taxing district in which the property is situated, for the use of such taxing district."