

APRIL 28, 1960

HONORABLE JOHN A. KERVICK:
State Treasurer
State House
Trenton, New Jersey

MEMORANDUM OPINION—P-11

DEAR MR. KERVICK:

You have requested our opinion as to the effect, if any, of Chapter 60 of the Laws of 1950 (N.J.S.A. 52:18-20.1 and 20.2) on checks drawn on the State Disability Benefits Fund established pursuant to the provisions of Chapter 110 of the Laws of 1948 (N.J.S.A. 43:21-46), and you have directed our attention to our Memorandum Opinion of January 13, 1955, wherein we advised that said Chapter 60, Laws of 1950 did not apply to checks drawn on the Unemployment Compensation Fund or the Unemployment Compensation Administration Fund.

Chapter 60 of the Laws of 1950 provides as follows:

"The State Treasurer is hereby authorized and directed to cancel of record, and to refuse to honor, all checks issued by the State Treasurer which have not been presented for payment within six years from the date they were issued.

"All State funds held on deposit for the payment of such checks shall, upon cancellation of the record of the checks by the State Treasurer, be credited to the State treasury for general purposes."

We have examined the legislative history of Chapter 60, Laws of 1950 and we are satisfied that this statute was not enacted in the exercise of the State's sovereign power to escheat unclaimed personal property but was primarily intended to eliminate the necessity of maintaining current bookkeeping records of checks which have not been presented for payment within six years from the date of issuance. The sponsor's statement accompanying the introductory copy of Senate Bill No. 235 (1950 Session) read as follows:

"The object of this bill is to relieve the state of the expense of carrying over from year to year a record of old outstanding checks. If these 'stale' checks are presented and their validity is duly verified, payment thereof may be made by direction of the appropriations committee of the legislature."

This statement, which may be consulted as an extrinsic aid in the interpretation of the statute, *Deaney v. Linen Thread Co.*, 19 N.J. 578 (1955), indicates a legislative intent to avoid the expense of carrying year to year records of outstanding checks and gives absolutely no indication that it was intended to exercise the sovereign power to escheat unclaimed personal property.

In our Memorandum Opinion of January 13, 1955, above referred to, we indicated our conclusion that, because of the expressed provisions in our statute setting up the Unemployment Compensation Fund and the Unemployment Compensation Administration Fund which limits the use of such Funds to the purposes of the Unemployment Compensation Act, Chapter 60 of the Laws of 1950, was not intended to, nor could it, authorize the "escheat" of any of these funds to the State Treasury for general

purposes. An examination of Chapter 110 of the Laws of 1948, (N.J.S.A. 43:21-25 et seq.), leads us to a like conclusion.

N.J.S.A. 43:21-46 which established the State Disability Benefits Fund expressly provided:

“* * * The fund shall be held in trust for the payment of disability benefits pursuant to this act, for the payment of benefits pursuant to subsection (f) of section 43:21-4 of the Revised Statutes, and for the payment of any authorized refunds of contributions. * * *”

In view of this expressed provision limiting the use of the Fund, it is clear that the general provisions of Chapter 60 of the Laws of 1950 cannot be held applicable to said Fund to effect a transfer of moneys in the Fund to the General Treasury.

It is a settled principle of law that where there is a seeming conflict between a general statute and a specific statute covering a subject in a more detailed and definite way, the latter shall prevail over the former and will be considered an exception to the general statute. *Goff v. Hunt*, 6 N.J. 600 (1951); *State of New Jersey v. Hotel Bar Foods*, 18 N.J. 115 (1955).

This Fund was started (N.J.S.A. 43:21-47) by a withdrawal of \$50,000,000 from the accumulated workers contributions in the Unemployment Compensation Fund, deposited in and credited to the account of the State of New Jersey in the Unemployment Trust Fund of the United States of America, established and maintained pursuant to Sec. 904 of the Social Security Act as amended, (42 U.S.C. § 1104), and has since been maintained by contributions of workers and employers as provided in N.J.S.A. 43:21-7 (d) and (e). This indicates that the moneys in this Fund are not “State funds” within the meaning of Chapter 60, Laws of 1948.

It is, therefore, our opinion and you are so advised that Chapter 60 of the Laws of 1950 does not apply to checks drawn on the State Disability Benefits Fund and the moneys held on deposit for the payment of such checks are not transferable to the State Treasury for general purposes under Chapter 60 of the Laws of 1950.

Very truly yours,

DAVID D. FURMAN
Attorney General

By: CHARLES J. KEHOE
Deputy Attorney General

May 26, 1960.

HON. EDWARD J. PATTEN
Secretary of State
State House
Trenton, New Jersey

MEMORANDUM OPINION—P-12

DEAR SECRETARY PATTEN:

You have asked whether domestic corporations engaged in the banking, insurance, loan or other financial business are required to file annual reports with the Secretary of State pursuant to N.J.S.A. 14:6-2.