

May 22, 1945

LAW LIBRARY
ARIZONA ATTORNEY GENERAL

Mrs. William McRae
Member of the Arizona Legislature
929 East Coronado
Phoenix, Arizona

Dear Mrs. McRae:

We answer your oral request as to whether or not the appropriation made by the Legislature of Arizona, under Chapter 88 of the Laws of 1943, relating to the Children's Colony, will lapse at the end of the present fiscal year.

Your attention is called to the fact that the Legislature, in Chapter 62 of the Laws of 1941, appropriated \$20,000.00 for the purpose of erecting buildings on the proposed Children's Colony. In 1943, by Chapter 88, the Legislature repealed the act of 1941 and provided, in substance, that the Board of Directors of the State Institution for Juveniles be authorized to sell certain land therein described and use the money derived from the sale of such land for the purpose of purchasing other land suitable for a Children's Colony, and to erect improvements thereon.

The Legislature in 1943, through the same act, also appropriated \$20,000.00, to be used for altering, repairing, equipping and furnishing the buildings on said Children's Colony. In short, both the \$20,000.00 and the money derived from the sale of certain state land is to be applied for the purchasing of the land and improving the same for the use of the Children's Colony.

In answering your question as to whether or not the appropriation made in Chapter 88 of the Laws of 1943 will lapse, we respectfully call your attention to a portion of Section 7, Chapter 86 of the Laws of 1943, popularly known as the "Czarina Bill", which provides that:

"* * * appropriations for construction or other permanent improvements shall not lapse until the purpose for which the appropriation was made shall have been accomplished or abandoned, unless such appropriation has stood during the entire fiscal biennium without an expenditure therefrom or incumbrance thereon."

Please note the underscored portion of the statute.

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The appropriation made in 1943 will lapse at the end of the fiscal biennium, that is June 30, 1945, unless the Board makes some expenditure authorized by the act of 1943, or places an incumbrance on the property sought to be acquired. An incumbrance in law is something in the nature of a lien, a contract for the purchase of something, a mortgage, and the like.

Inasmuch as the time is getting short, we advise that the Board forthwith take some action in accordance with the provisions of the law above cited, so as to prevent the appropriation from lapsing on July 1, 1945.

Very truly yours,

JOHN L. SULLIVAN
Attorney General

HARRY O. JULIANI
Chief Assistant
Attorney General

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