

Answering your questions:

1. Whether they also function with respect to the acceptance of applications for construction permits where riparian rights have been granted.

The answer is yes.

2. Whether they pass on applications and set prices for easement.

The answer is yes.

3. Whether they pass on applications and set prices for licenses.

The answer is yes.

4. Whether they function in the matter of waterfronts and jetty improvements.

The answer is yes.

5. Do they have any right to pass on improvements to be made and the awarding of contracts.

The answer is yes.

6. Should the expenditures made by the commissioner in the operation of these various works be submitted to them for approval. The answer is no. The commissioner is in charge of expenditures and they are to be made under his jurisdiction and approval.

Regarding the answers to the five questions above, all of these matters are subject to the approval of the commissioner and the governor.

Yours very truly,

THEODORE D. PARSONS,
Attorney General,

By: ROBERT PEACOCK,
Deputy Attorney General.

May 16, 1949.

HON. HARRY C. HARPER,
Commissioner of Labor and Industry,
State House,
Trenton 7, N. J.

FORMAL OPINION—1949. No. 42.

DEAR COMMISSIONER:

Re: Employment of Minors in Agricultural Pursuits.

Receipt is acknowledged of your request for an interpretation of the term "Agricultural pursuits" as used in R. S. 34:2-21.2.

The situation, specifically, is one wherein a minor under 18 years of age was employed by a large nursery industry in the actual raising of horticultural products. During the Easter season he was transferred to a retail farm market owned and operated by the employer nurseryman. The agricultural permit for the minor had

expired in 1948 and in April, 1949, at which time the minor was injured, no employment certificate was on file.

The question here involved must necessarily be whether the actual duties of the minor at the time of the accident, i. e., selling the products of his employer, are to be classified as agricultural or mercantile.

The New Jersey Supreme Court in 1941 in the case of *Henry A. Dreer, Inc. vs. Unemployment Compensation Commission of New Jersey, et al*, 127 N. J. L. 149, pointed out that the test "is the nature and object of the business." Further the Court said at page 153 ". . . that emphasis is laid on the character, relationship and business of the employer, rather than on the kind of work done by the employee."

Here, as in the case *supra*, the work of the minor was germane and incidental to the business of the employer, and a fortiori, agricultural in character.

Very truly yours,

THEODORE D. PARSONS,
Attorney General.

By: GRACE J. FORD,
Assistant Deputy Attorney General.

May 5, 1949.

HON. J. LINDSAY DE VALLIERE, *Director,*
Division of Budget & Accounting,
State House, Trenton, N. J.

FORMAL OPINION—1949. No.43.

DEAR MR. DE VALLIERE:

Receipt of your memorandum of April 25, 1949, is hereby acknowledged.

As we understand the problem, you and Doctor Carpenter of the Civil Service Commission have been petitioned to change the salaries of the Director of the Division of Planning and Development, and the Director of the Division of Veterans' Services from \$7,500.00 to \$10,000.00. The Commissioner urges that the Legislature has failed to set these salaries pursuant to Article II, Section 8 and Article III, Section 21 of Chapter 448, P. L. 1948. We understand, further, that the \$7,500.00 salaries of the directors are line items set forth in the appropriation law (P. L. 1949, Chap. 43).

You ask the question whether the Treasurer has authority to use other funds to transfer to these line items so that each item will be increased from \$7,500.00 to \$10,000.00 as requested by Commissioner Erdman.

The answer is no.

Article II, Section 8, Chapter 448, P. L. 1948, among other things, provides:

"The director of such division shall be appointed by the governor with the advice and consent of the senate and shall serve during the term of office of the governor appointing him and until the director's successor be appointed and has qualified. *He shall receive such salary as shall be provided by law.*"