

By various acts including P. L. 1940, Chapter 52, P. L. 1946, Chapter 258, P. L. 1946, Chapter 313 (particularly as to Shrewsbury and *Manasquan* Rivers, when appropriations made); R. S. 12:2-14, R. S. 12:2-17, R. S. 12:3-7, R. S. 12:6-1, R. S. 12:6-13, R. S. 12:6-18 (involving U. S. government), there appears a clear intent to place under the Department of Conservation and Economic Development such projects as are contemplated in the question presented to me for opinion.

I have given the statutes conferring powers and authority upon the State Highway Commissioner and the State Highway Department the broadest possible interpretation, particularly in view of acts limiting the scope for the use of highway funds, but, in view of the other statutes referred to, I am of the opinion that the Legislature has shown a clear intent to place such projects as the present within the province of the present Department of Conservation and Economic Development. That opinion is supported further by the fact that by doing so there is a clearer division of authority and power between the two departments of the State government and less likelihood of overlapping jurisdictional questions, conflict and confusion.

It is therefore my opinion that the intent of the legislation referred to is to withhold from the jurisdiction of the State Highway Commissioner and Department the project mentioned and that therefore such Commissioner and Department could not properly expend the funds and enter into the contracts referred to under the facts and circumstances presented.

Very truly yours,

THEODORE D. PARSONS,  
*Attorney General,*

By: FRANK A. MATHEWS, JR.,  
*Deputy Attorney General.*

m:m

MAY 23, 1949.

MRS. RUTH SCISCO, *Commissioner,*  
*Monmouth County Board of Elections,*  
Court House, Freehold, N. J.

FORMAL OPINION—1949. No. 56.

DEAR MRS. SCISCO:

Receipt is acknowledged of your letter of May 21st in which you submit the following query:

“Under Title 19, New Jersey Election Law, Revised Statutes, paragraph 19:31-5, whereby it states that any person who will be twenty-one years of age by next ensuing general election may register and referring to paragraph 19:4-1 whereby a person having the qualification to vote in the general election may register and vote on the primary has been brought to my attention regarding the following question. May a person who will be twenty-one years of age on or before general election and who may vote in the primary have the privilege of voting in a Commission or City Manager election which takes place between the primary and general election?”

The Constitution by Article II, paragraph 3 provides :

"Every citizen of the United States, of the age of twenty-one years, who shall have been a resident of this State one year, and of the county in which he claims his vote five months, next before the election, shall be entitled to vote for all officers that now are or hereafter may be elective by the people, and upon all questions which may be submitted to a vote of the people."

Revised Statutes, Sections 19:4-1 and 19:31-5 must be read in the light of the constitutional provisions quoted.

The sections of the Election Law referred to deal primarily with the question of registration. This matter was considered by our courts in the case of *In Re Freeholders of Hudson County*, 105 N. J. Law 57, and in the case of *In Re Ray*, 56 Atlantic Reporter 2d, p. 761. Therein the court draws a distinction between a qualified voter under the Constitution and one who becomes entitled to exercise the right to vote pursuant to the Registration Law wherein the courts held :

"Registration does not confer the right; but is a condition precedent to the exercising of the right."

A person registered pursuant to the Election Law must have the constitutional age qualification, to wit, being of the age of twenty-one years at the time he attempts to vote in any Commission or City Manager election which takes place between the primary and the general election.

Yours very truly,

THEODORE D. PARSONS,  
*Attorney General,*

By: JOSEPH LANIGAN,  
*Deputy Attorney General.*

JL:MB

JUNE 2, 1949.

HON. JAMES B. SAUTTER,  
*Deputy State Treasurer,*  
State House.

FORMAL OPINION—1949. No. 57.

MY DEAR MR. SAUTTER:

I have your letter of May 26th calling my attention to Chapter 79 of the Laws of 1944, and requesting advice as to whether that act includes savings banks. The act in question makes lawful, under certain circumstances, deposits of State moneys "in such of the national banks located in this State and institutions authorized by this State to carry on a banking business."

The language just quoted first appeared in Chapter 235 of the Laws of 1902 and has been continued in the amendment of 1944.