

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.

So far as I am aware it has never been suggested before that a savings bank fell within the descriptive words above quoted. My view is that a savings bank does not carry on a banking business such as was in contemplation of the Legislature when the act of 1902 was enacted, for a savings bank carries on a business of limited character, and not such as is usually transacted by a national bank or a State bank or trust company, and I find nothing in Chapter 67 of the Laws of 1948, concerning banks and banking business which covers savings banks, which in any wise changes the opinion which I have expressed. We must remember that in construing the statute of 1902 we must, if possible, ascertain the legislative will, and I am sure that the legislative body which enacted that law never had in contemplation savings banks when it spoke of institutions carrying on a banking business.

Furthermore, the long continued practical construction of that statute apparently placed thereon by the officers of the State must be considered and given weight, for I am advised that no deposit of State moneys, under the act of 1902, as amended, has ever been made by the State in a savings bank by the many State Treasurers who have occupied that office since the year 1902.

I am therefore of opinion that savings banks do not fall within the meaning of the words "institutions authorized by this State to carry on a banking business" as used in the act of 1944 above referred to.

Very truly yours,

THEODORE D. PARSONS,
Attorney General,

By: THEODORE BACKES,
Deputy Attorney General.

TB:S

JUNE 2, 1949.

COL. CHARLES H. SCHOEFFEL, *Superintendent,*
New Jersey State Police,
Trenton, New Jersey.

FORMAL OPINION—1949. No. 58.

DEAR COLONEL SCHOEFFEL:

Your letter of May 31, 1949, requesting an opinion as to whether or not your department should continue to pay compensation to Sergeant Norman while he is under the care of the Veterans Administration on 100% disability and is receiving aid from the United States Government, received.

The facts show that Norman was in the United States Army during the period from January 31, 1942, to March 1, 1945, on leave of absence from the Division of State Police, and during that time he contracted a severe case of arthritis and a skin disease known as scleroderma. Since he returned to the division he has lost time and has not performed his duties as a State trooper since January 17, 1949, because of the disability received in the United States Army.