

The exercise by the Council of its powers under this section is not subject to the control of the Commissioner or the Governor. In order for the Council to exercise its powers as set forth therein, its members, of necessity, must know and be informed as to all the workings of the Division of Planning and Development. They must be kept fully informed, and they have the right to call upon the Commissioner or Director to furnish such information as they may need for these purposes.

Section 13 of the act (R. S. 13:1B-13) provides that no riparian leases or grants shall be allowed, except when approved by at least a majority of the council, and approved and signed by the Governor and Commissioner.

The above generally sets forth the powers and duties of the Council. To summarize: the policies formulated by it pursuant to Section 11 shall not become effective until approved by the Commissioner; the exercise of its powers under Section 12 is not subject to the approval of any outside officer or agency; and, the exercise of its powers under Section 13 is subject to the approval of the Governor and the Commissioner.

Yours very truly,

THEODORE D. PARSONS,
Attorney General,

By: CHESTER K. LIGHAM,
Deputy Attorney General.

CKL/f

JULY 22, 1949.

HON. J. LINDSAY DEVALIERE, *Director,*
Division of Budget and Accounting,
Department of the Treasury,
State House, Trenton, N. J.

FORMAL OPINION—1949, No. 82.

DEAR SIR:

This is in response to your inquiry whether Article 8, Section 4, paragraph 1, of the Constitution of 1947, prevents appropriation of State funds for education other than in the age range of 5 to 18 years set forth therein.

In my opinion the answer to such inquiry is in the negative and there may be appropriation of State funds for education beyond such age group.

Article 8, Section 4, paragraph 1, provides:

"The Legislature shall provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of all the children in the State between the ages of five and eighteen years."

This provision was contained verbatim in Article 4, Section 7, paragraph 6, of the Constitution of 1844 as amended, and the same question now raised was considered by the Courts of this State in *Rutgers College vs. Morgan Compt'r*, 70 L.

460, affirmed by the Court of Errors and Appeals in 71 L. 663. In that case the Court held this constitutional provision fixed the minimum of what must be done and did not define the maximum of the legislative power. It enjoined the Legislature to do that much but did not forbid it to do more. In speaking of this provision, the Court said (P. 70 L., at p. 412):

"The injunction in the organic law that free public schools shall be established and maintained for all children between the ages of five and eighteen years does not exclude the legislative power to provide for the education of persons not within that class. The former must be provided for; the latter may be an object of legislative concern."

In my opinion, Article 8, Section 4, paragraph 1, fixes the minimum requirement. It was not intended to narrow or circumscribe the legislative power with respect to education and does not prevent the Legislature from providing for education outside the age range specified.

Yours very truly,

THEODORE D. PARSONS,
Attorney General,

By: JOSEPH A. MURPHY,
Assistant Deputy Attorney General.

JAM:MB

JULY 28, 1949.

HON. J. LINDSAY DEVALLIÈRE,
Director, Division of Budget and Accounting,
Department of the Treasury,
State House.

FORMAL OPINION—1949. No. 83.

DEAR MR. DEVALLIÈRE:

You have requested my opinion as to whether or not Mr. William Abbotts, the law reporter for the former Supreme Court, was entitled to receive any salary from the State as law reporter after September 15, 1948.

In my opinion, the answer is "no"; and if, as you have indicated, Mr. Abbotts was paid any money on that account after said date, the State should file a claim against him for refund of the same.

The Constitution of 1844, Article VII, Section II, par. 4, provided for the constitutional office of law reporter as follows:

"The law reporter shall be appointed by the justices of the supreme court, or a majority of them; and the chancery reporter shall be appointed by the chancellor.

"They shall hold their offices for five years."