> Neither do the advantages or disadvantages, the wisdom or folly, of . . . a rule present any matters for judicial consideration. With the courts the question is only one of power. The Constitution empowers each house to determine its rules of proceedings. It may not by its rules ignore constitutional restraints or violate fundamental rights, and there should be a reasonable relation between the mode or method of proceeding established by the rule and the result which is sought to be attained. But within these limitations all matters of method are open to the determination of the House, and it is no impeachment of the rule to say that some other way would be better, more accurate or even more just. It is no objection to the validity of a rule that a different one has been prescribed and in force for a length of time. The power to make rules is not one which when once exercised is exhausted. It is a continuous power, always subject to be exercised by the house, and within the limitations suggested, absolute and beyond the challenge of any other body or tribunal.

We conclude by emphasizing that the Senate, as one of the independent houses of the Legislature, has exclusive authority to "determine the rules of its proceeding"; and that this opinion is not to be interpreted as an expression on our part concerning the policy of the Senate as to procedures which lie within the sole discretion of that body.

Yours very truly,

THEODORE D. PARSONS,
Attorney General,

By: DOMINIC A. CAVICCHIA,
Deputy Attorney General.

JANUARY 10, 1950.

DANIEL BERGSMA, M. D.,
State Commissioner of Health,
State House,
Trenton, New Jersey.

FORMAL OPINION—1950. No. 4.

DEAR DR. BERGSMA:

Your letter of transmittal under date of November 30th, 1949 requesting an opinion relative to requirement of a license in a given case by the Board of Beauty Culture Control is hereby acknowledged and memorandum opinion rendered as follows:

STATEMENT OF FACTS.

It would appear from your inquiry, that a person who is presently licensed as a teacher and demonstrator under the rules and regulations of the Board of Beauty Culture Control and laws applicable thereto, is holding himself out as a "consultant" by rendering advice to duly licensed beauticians on problems of hair styling, illustrating the technique involved and supervising first attempts to apply newer techniques, in places other than licensed beauty schools.

QUESTION PRESENTED.

The question to be answered is whether such a person is precluded from acting as a "consultant" under present laws.

ANSWER.

The answer is no.

REASONS.

A negative answer is in order for the reason that there are no laws presently upon the books of this State which require licensing as a beauty culture "consultant". R. S. 45:4A–5.1 provides as follows:

> "Subject to compliance with the requirements of chapter four-A of Title 45 of the Revised Statutes, the Board of Beauty Culture Control shall issue the following licenses: (a) license to practice beauty culture as an operator; (b) license to practice beauty culture as manager-operator; (c) license to demonstrate appliances, methods or cosmetics used in the practice of beauty culture; (d) shop license to use or maintain premises for the practice of beauty culture; (e) license to teach beauty in licensed beauty schools only; (f) limited license as a manicurist to manicure the fingernails only; (g) school of beauty culture license to use or maintain premises for the teaching of beauty culture; (h) temporary license to use or maintain premises for the demonstration of appliances, methods or cosmetics to be used in the practice of beauty culture; (i) student's temporary permit to practice beauty culture; (j) temporary permit to practice beauty culture while an applicant is scheduled for an examination; (k) duplicate license, issued in case of loss or destruction of the original license."

It should be noted that no mention is made in the statute hereinbefore referred to as to consultants. It should also be noted for the purposes of this opinion that inquiry is made of a person who has already complied with the provisions of subdivisions (c) and (e) of the statute referred to.

Websters New International Dictionary, Second Edition, (unabridged) defines a consultant as (1) "one who consults another;" (2) "one who gives professional advice or services regarding matters in the field of his special knowledge or training, as a consulting physician or engineer, or, sometimes, a detective".

From such a definition, it would appear entirely proper to hold that those pursuing an interest in particular fields of beauty culture can hold themselves out as consultants, there being no less reason to so hold than in case of doctors who, as specialists, instruct other doctors as to operations or treatments, or in the case of lawyers who, as specialists, advise other lawyers.

To hold, therefore, that consultants in beauty culture are nothing more than teachers who should limit their teaching of beauty culture in licensed beauty schools only as provided in R. S. 45:4A-5.1 subdivision (e) would, to my mind, do violence to the statute in question and represent an attempt to read into the law something that is not there now.

It follows then, that a person may properly hold himself out as a consultant and not necessarily limit his right to impart knowledge in a particular or special field

of beauty culture to a place or building called a beauty school and more particularly in the case of a person who already holds a demonstrator's and teacher's license as in the case at bar.

Respectfully submitted,

THEODORE D. PARSONS,
Attorney General,

By: JOHN WARHOL, JR.,
Deputy Attorney General.

JANUARY 11, 1950.

HONORABLE CHARLES R. ERDMAN, *Commissioner,*
Department of Conservation and Economic Development,
520 East State Street,
Trenton, New Jersey.

FORMAL OPINION—1950. No. 5.

DEAR COMMISSIONER ERDMAN:

You have requested our opinion as to whether the State, which operates and maintains the Manasquan Canal at its own expense, may attempt to recover such cost by charging tolls for the use of the Canal. The answer is "No".

Although constructed by the State on land owned by it, the Canal connects two navigable waters of the United States, and thus is itself a navigable water of the United States. *Ex parte Boyer,* 109 U.S. 629; *The Robert W. Parsons,* 191 U.S. 17; *State* vs. *Columbia Waterpower Co.,* 82 S. C. 181, 63 S. E. 884. The Canal is therefore subject to the control of Congress for regulatory purposes, to insure the free navigation of those waters. *County of Mobile* vs. *Kimball,* 102 U. S. 691, 699; 11 C. J. 1140. Until the Federal government has dictated otherwise, the State has the right to charge tolls as compensation for the use of canals owned and operated by it. *Sands* vs. *Manistee River Improvement Co.,* 123 U. S. 288, 295; *Huse* vs. *Clover,* 119 U.S. 543,548. See also *S. C. Highway Dept. v. Barnwell Bros.,* 503 U.S. 177, 187; *Clyde-Mallory Lines* vs. *Alabama,* 296 U. S. 261, 267; *State* vs. *Columbia River Waterpower Co. supra,* 63 S. E. 885. In respect to the Manasquan Canal, however, it appears that the United States has exercised its power to prevent the State from exacting tolls.

In 1906 Congress passed a statute (33 U. S. C. A., Section 566) authorizing the State of New Jersey or its agents "to improve the channels on the New Jersey seacoast, or any portion of said coast, or the waters adjacent thereto, lying between thirty-eight degrees, fifty-six minutes and forty degrees, twenty minutes, north latitude, (the Canal lies within these parallels) by dredging, or by the construction of piers, jetties, or breakwaters, or other river and harbor work of any description or nature adapted to attain the ends now pursued by the United States government for the advantage of said coast or for the relief of commerce; *Provided* * * * That no tolls or other charges upon commerce shall be imposed by those making such improvements. * * *" This proviso exemplifies a policy against tolls which has been