In reaching this conclusion, we are not unmindful of certain provisions of Chapter 6, Title 43, which refers to certain judicial officers, receiving on retirement or incapacity pursuant to the terms and under the specific conditions of the statutes hereinafter cited, what is referred to as an "annual salary or compensation" during the remainder of their natural life. (See R. S. 43:6—2 and R. S. 43:6—6). The wording of these statutes in describing a pension, as salary or compensation, is unusual, and does not conform with normal statutory language on the subject. Witness that the 1948 Judicial Retirement Statute (N. J. S. A. 43:6—6.1 to 43:6—6:10 incl.), in referring to the benefits payable thereunder to certain retired or disabled judicial officers calls such benefits a pension. In any event, Judge Del Mar's retirement was not under the provisions of R. S. 43:6—2 or 43:6—6 referred to above, but was under the Veterans' Pension Act, which specifically describes the benefits being received by him, as a pension, and not as a salary or compensation.

Inasmuch as pension payments made under the Veterans' Pension Act cannot, in our opinion, in the absence of express words to the contrary, be regarded as salary, the County of Bergen would not be entitled to reimbursement from the State, for any portion of these payments.

Yours very truly,
GROVER C. RICHMAN, JR.
Attorney General

By : DANIEL DE BRIER
Deputy Attorney General

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SEPTEMBER 2, 1954.

HON. FREDERICK M. RAUBINGER
Commissioner of Education
175 West State Street
Trenton, New Jersey

FORMAL OPINION 1954—No. 18.

DEAR COMMISSIONER:

You have requested our opinion as to whether the Law Against Discrimination applies to a private school for boys, providing a course of study from kindergarten through preparation for college, which is owned and operated by a board of trustees and not by a religious or sectarian institution, and which receives no income except from tuition fees and contributions from private sources.

In my opinion, the Law Against Discrimination does apply to such a school. Section 11 of the law (P. L. 1945, c. 169 as amended by P. L. 1949, c. 11, N. J. S. A. 18:25—12f.) makes it an unlawful discrimination for the owner or operator of "any place of public accomodation", in extending the privileges and facilities thereof, to discriminate against any person on account of race, creed, color, national origin, or ancestry. The term "place of public accomodation" is defined in the law (N. J. S. A. 18:25—5j) as including "any kindergarten, primary and secondary school, trade or business school, high school, academy, college and university, or any educational institution under the supervision of the State Board of Education, or the Commissioner of Education of the State of New Jersey." The definition then goes on to provide as follows:

"Nothing herein contained shall be construed to include, or to apply to, any institution, bona fide club, or place of accomodation, which is in its nature distinctly private; nor shall anything herein contained apply to any educational facility operated or maintained by a bona fide religious or sectarian institution, and the right of a natural parent or one in locol parentis to direct the education and upbringing of a child under his control is hereby affirmed; nor shall anything herein contained be construed to bar any private secondary or post-secondary school from using in good faith criteria other than race, creed, color, national origin or ancestry, in the admission of students."

Aside from the question whether a school of the type under discussion might otherwise be considered an institution which is in its nature "distinctly private", the last two clauses of the sentence above quoted make it clear by implication that such a school is covered by the law. If educational facilities which are private in the sense of not being part of the public school system were excluded from the law as distinctly private institutions, there would be no need for the specific exclusion of religious or sectarian schools. Yet it is well settled that every word, clause and sentence in a statute is to be given significance where that is reasonably possible, and that the Legislature will be presumed not to have made a superfluous use of words. *Ford Motor Company v. New Jersey Dept. of Labor and Industry,* 5 N. J. 494, 502 (1950); *Steel v. Freeholders of Passaic,* 89 N. J. L. 609, 612 (E. & A. 1915).

Similarly, if every so-called private school were exempt from the Law Against Discrimination by virtue of being an institution "which is in its nature distinctly private", it would have been superfluous to provide in the last clause of the above quoted proviso that private secondary schools might use in good faith criteria other than race, creed, color, national origin or ancestry in the admission of students. Indeed, the express vesting of such authority in private secondary schools plainly indicates that they are prohibited from considering race, creed, color, national origin or ancestry in the admission of students.

For the foregoing reasons, it is our opinion that so-called private educational institutions were not intended by the Legislature to be considered as institutions which are in their nature "distinctly private", within the meaning of that phrase as used in the law, and that such educational facilities are subject to the law execept for those which are operated or maintained by a bona fide religious or sectarian institution.

It may be added that in using criteria other than race, creed, color, national origin or ancestry in the admission of students, the school must follow the statutory injunction of "good faith". This plainly means that the institution may not circumvent the law by using such other criteria for the purpose of accomplishing the prohibited discrimination.

Yours very truly,

GROVER C. RICHMAN, JR.
Attorney General

By : THOMAS P. COOK,
Deputy Attorney General.

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