required the association to distribute to a winning patron not less than the face of the winning ticket plus a certain amount on each dollar wagered. Since there is no statutory requirement (nor even a commission regulation) requiring the track to distribute the ten cents ($0.10) on the dollar as hereinabove stated, I assume that such distribution is voluntarily made by the track for the purpose, among other reasons, of creating good will and inviting greater patronage. In other words, although there is no legal obligation on the part of the track so to do, it is apparently a sound business policy ultimately enuring to the economic advantage of the association. With such policy the State is not legally concerned.

Based on the facts hereinbefore referred to, and the law applicable thereto, it is my conclusion that the odd cents over a multiple of ten cents ($0.10), calculated on the basis of a dollar, constitute breaks payable to the State, even though the amount otherwise payable to the patron may be one dollar and nine cents ($1.09) as herein referred to.

Respectfully yours,

THEODORE D. PARSONS,
Attorney General,

By: MAX EISENSTEIN,
Deputy Attorney General.

MARCH 14, 1949.

HONORABLE SANFORD BATES, *Commissioner,*
Department of Institutions and Agencies,
State Office Building,
Trenton, New Jersey.

FORMAL OPINION—1949. No. 7.

MY DEAR COMMISSIONER BATES:

It appears that there are certain prisoners in the New Jersey State Prison at Trenton who have been committed by the courts to serve a sentence of life and that such prisoners have on one or more prior occasions been convicted of crime.

You desire to be advised as to whether Section 11 or Section 12 of Chapter 84, P. L. 1948, shall be utilized in determining the date upon which such prisoners shall be eligible for consideration for release on parole.

I am of the opinion that section 11 will govern the eligibility date. It provides that any prisoner serving a sentence of life shall be eligible for consideration for release on parole after having served 25 years of his sentence, less commutation time for good behavior and time credits earned and allowed by reason of diligent application to work assignments.

Section 12 can have no application to the matter under consideration for thereunder it will appear that it is impossible for the Parole Board to compute an eligibility date. Section 12 provides that a second offender shall not be eligible for parole until he has served one-half his maximum sentence, a third offender shall not be paroled until he has served three-fourths of his maximum sentence and a fourth offender shall be required to serve his maximum sentence.

In view of the uncertainty of the span of life of a prisoner sentenced to confinement for the duration of his natural life, it is obviously impossible to compute one-half, or any other percentage thereof, in determining the eligibility date.

The Legislature, having this in mind, intended that all prisoners serving a sentence of life be given an eligibility date as provided for in section 11.

Very truly yours,

THEODORE D. PARSONS,
Attorney General,

By: EUGENE T. URBANIAK,
Deputy Attorney General.

MARCH 14, 1949.

HONORABLE SANFORD BATES, *Commissioner,*
Department of Institutions and Agencies,
State Office Building,
Trenton, New Jersey.

FORMAL OPINION—1949. No. 8.

MY DEAR COMMISSIONER BATES:

First, you desire to be advised whether the chief executive officer of a State correctional or charitable institution is permitted to censor incoming mail intended for your patients and outgoing mail written by them and intended for other persons.

It is my opinion that the chief executive officers are permitted to censor both incoming mail intended for your patients and prisoners and outgoing mail written by them and intended for other persons.

I reach this conclusion because in June 1947, it was necessary to take up this general question with the Postal Authorities and on June 24, 1947, Frank Delany, Esquire, Solicitor for the Post Office Department, submitted Form 287 from the Office of the Solicitor of the Post Office Department, dated July 24, 1922, setting out portions of various opinions of the United States Attorney General's Office on the right of prison officials to open the letters of prisoners.

Mr. Delaney in his communication advised that the principle of law that applies to inmates of penal institutions applies with equal force to patients in mental institutions under court commitment who have been declared incompetent. The general rule to be applied in a situation of this kind is that when the Post Office Department has delivered to the institution superintendent the mail intended for a prisoner or patient under his supervision that their jurisdiction and control over such mail is terminated. Conversely, the Post Office Department has no jurisdiction over mail written by a patient or prisoner until it is actually placed within the control of the Post Office Department. Mr. Delany said specifically:

> "The Post Office Department recognizes the right on the part of the institution to exercise its discretion concerning mail matter addressed to or written by the inmate."