

May 17, 1949.

MR. FRANK B. BAER, *Secretary,*
Prison Officers' Pension Fund,
New Jersey State Prison,
Trenton 6, New Jersey.

FORMAL OPINION—1949. No. 53.

DEAR SIR:

I have your letter of the 2nd instant. The question to be determined is whether all fines, etc., imposed upon prison officers, whether such officers be members of your fund or not, shall be paid into your fund. The matter is controlled by Section 7 of Chapter 220 of the Laws of 1941, establishing the Prison Officers' Pension Fund.

As you know, under Section 11 of your pension act, any prison officer in office when the act became effective on July 4, 1941, had thirty days from that date in which to decline membership, and by Chapter 80 of the Laws of 1946, veterans are permitted to withdraw membership.

It is thus seen that there are prison officers as defined in Section 2 of your act, as said section was amended by Chapter 193 of the Laws of 1943, who may or may not be members of your fund.

A mere glance at Section 7 of the Act of 1941 furnishes the answer, for the first subdivision (a) speaks of deductions from pay "to prison officers benefited by this act;" the second subdivision (b) directs payment by the State into the fund of a definite amount measured by the total salaries paid to the prison officers "who shall benefit by this act;" and subdivision 3 provides that "There shall be added to such fund all fines imposed upon any such prison officer" * * * as well as all money deducted from salary of "such prison officers." The word "such" as thus used twice in subdivision 3 clearly refers to the prison officers benefited by the act, and can have no application to a prison officer who is not a member of your fund.

Very truly yours,

THEODORE D. PARSONS,
Attorney General,

By: THEODORE BACKES,
Deputy Attorney General.

TB:D