FEBRUARY 28, 1950.

COL. CHARLES H. SCHOEFFEL, *Supt.,*
Division of State Police,
Department of Law and Public Safety,
State House,
Trenton, New Jersey.

FORMAL OPINION—1950. No. 22.

DEAR SIR:

You desire to be advised concerning the propriety and legality of fingerprinting certain juvenile offenders of the age of 17 but under the age of 18. Specifically, you desire answers to the following three inquiries:

1. May police officers fingerprint persons of or over the age of 17 and under the age of 18 who are arrested for what would be classed as an indictable offense?

2. May persons of or over the age of 17 and under the age of 18, who are received in county jails, workhouses and penitentiaries be fingerprinted when received in those institutions?

3. May persons of or over the age of 17 and under the age of 18, who have been convicted and sentenced to State penal institutions be fingerprinted when received in those institutions?

It is our opinion and we so advise you that the answer to each query is in the affirmative, subject, however, to the conditions and limitations imposed by the Legislature and discussed below. Chapter 284, P. L. 1948, Section 2 thereof, amending R. S. 9:18–12 controls and for purposes of clarity we set out the section hereinafter in its entirety:

> "Any person of or over the age of seventeen years and under the age of eighteen years, who shall have been arrested and charged with the commission of any offense which, except for the provisions of the act to which this act is a supplement, would be an indictable offense, may be fingerprinted, but in case such person is found not to be guilty of such offense or such charge is dismissed, the State Bureau of Identification or any police department having possession of the same shall deliver such fingerprints to a judge of the court having jurisdiction of such proceedings, upon demand, and they thereupon shall be destroyed."

The immunity from fingerprinting which formerly obtained with respect to an offender of this age, derived from R. S. 9:18–32, which provided in substance that no adjudication upon the status of a child under the act pertaining to the juvenile courts should operate to impose upon him any of the civil disabilities ordinarily connected with conviction and further that no child should be deemed a criminal because of the disposition made of his case in juvenile court. Nor could such adjudication be admissible as evidence against him in any other court. This office, accordingly, ruled that no fingerprints of such a child could be taken under the law as it existed prior to July 27, 1948, the effective date of Chapter 284, P. L. 1948.

However, the Legislature, by the 1948 amendment to R. S. 9:18–12 evidenced an intention to remove this legislative immunity against fingerprinting from those prisoners of or over the age of 17 and under the age of 18 coming within the purview of Title 9, Chapter 18.

It is noted in connection with the first query that the Legislature, while it removed the immunity against fingerprinting, made the further stipulation that if the offender is found to be not guilty of the offense for which he was apprehended then it is the responsibility of the State Bureau of Identification, or any police department having possession of such fingerprints, to deliver them to the judge of the court having jurisdiction of the proceedings, upon demand, and they thereupon shall be destroyed. Even if not demanded by the court, it would seem to be the better plan for the agency having possession of said fingerprints, in case of a dismissal of the charges, to voluntarily surrender them to the court.

In respect to the second and third questions, you inquire as to whether persons over the age of 17 and under the age of 18, who are received in county jails, workhouses and penitentiaries and State penal and correctional institutions, may be fingerprinted when received therein. The answer is in the affirmative if the offenses for which these individuals were convicted and sentenced would have been indictable offenses were it not for the provisions of Title 9, Chapter 18, Revised Statutes. If, however, the individuals were received in these respective institutions for offenses not indictable then they may not be fingerprinted.

Very truly yours,

THEODORE D. PARSONS,
Attorney General.

By: EUGENE T. URBANIAK,
Deputy Attorney General.

ETU:HH

MARCH 10, 1950.

HON. J. L. BROWN, *Acting Commissioner,*
Department of Labor and Industry,
State House,
Trenton 7, N. J.

FORMAL OPINION—1950. No. 23.

DEAR MR. BROWN:

This will acknowledge receipt of your letter of February 24, 1950, wherein you request an opinion interpreting Sec. 3, Chap. 38, P. L. 1946, which law pertains to labor disputes in public utilities. The law also provides for collective bargaining, enlarging the duties of the State Board of Mediation and providing for seizure and operating of public utilities by the State.

Section 3 is as follows:

"There is hereby included in the functions of the State Board of Mediation the following responsibility:

(A) The determination of who are the representatives of any given craft or class of employees of a utility; which employees of a utility constitute or are members of a given craft or class and entitled to vote in an election for choice of representatives of such craft or class for purposes of collective bargaining. It