

was amended twice, once on June 12, 1948 and again on May 23, 1952 both occasions being subsequent to the amendment of R. S. 30:1-2 (P. L. 1948, chap. 87) without deleting, defining or explaining the word "board."

May it not be assumed that the Legislature left the word "board" in R. S. 11:4-4(m) because it intended that it should remain in? This assumption becomes more forceful when it is realized that the word "board" was left in with the complete knowledge of the Legislature that it had reduced the various departments and agencies to 14 principal departments and no one of the 14 departments constitutes a "board." Therefore, it may be reasoned that the Legislature, anticipating the obscurity which would result by the reorganization, would have excluded "boards" but for the fact that it meant intentionally to leave it in.

R. S. 11:4-4(m) applies to the State Parole Board simply because the statute includes "boards" as a class of agencies that may appoint in the unclassified service, strict construction notwithstanding.

Yours very truly,

THEODORE D. PARSONS,
Attorney General.

By: JOHN W. GRIGGS,
Deputy Attorney General.

jwg:n

DECEMBER 22, 1952.

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

FORMAL OPINION—1952. No. 41.

DEAR COMMISSIONER BATES:

You have requested an interpretation of the provisions of chapter 56, P. L. 1950, which permits a prisoner in confinement in default of fine to discharge the fine at the rate of \$3 per day for each day of imprisonment.

In the case under consideration it appears that the prisoner was given a sentence having a minimum and a maximum term and, in addition, a fine was imposed upon him. In default of payment thereof he stands committed. You indicate that the parole board has granted him a parole, effective immediately, with regard to the minimum-maximum sentence imposed upon him, and his present incarceration relates solely to failure to pay the fine.

You desire to be advised whether the sentence upon which he was paroled will continue to run to its maximum expiration date at the same time that he is working out the fine.

It is our opinion and we advise you that such a prisoner is deemed to have the dual status of a prisoner paroled on his minimum-maximum sentence and a convict in confinement serving time in default of payment of the fine imposed upon him.

We find no authority in chapter 84, P. L. 1948, the Parole Law, which would permit or authorize the State Parole Board to hold a sentence in suspension and

defer the effective date of parole to accommodate an intervening period of imprisonment such as that represented by the case here under review. Accordingly, a parole granted by the State Parole Board, becomes effective upon the date specified therein and the sentence of the prisoner continues to run until the maximum thereof unless said parole is revoked for cause, as provided by law.

In the situation you speak of, the confinement of the prisoner in default of payment of the fine is analogous to a consecutive sentence following a prior sentence upon which parole had been granted by the board.

The manner in which consecutive sentences shall be dealt with is set out in the case of *In re Fitzpatrick* 9 N. J. Super. 511 (County Court, 1950); affirmed 14 N. J. Super. 213 (App. Div. 1951). Therein it is stated that when parole is granted on one of a series of consecutive sentences, such parole shall become effective upon the date specified therein and thereupon while under such parole, the prisoner shall enter into and upon service of the next succeeding sentence. At that time, as the court observed, he has the dual status of a prisoner on parole on a prior sentence and a prisoner in confinement on the next succeeding sentence.

Accordingly, with respect to the case under discussion, the same result obtains and the prisoner is deemed to be serving his sentence of incarceration, upon which he has been paroled, and at the same time he is disposing of the fine for which he is now in confinement under default of payment thereof at the rate of \$3 per each day of imprisonment as provided in chapter 56, P. L. 1950.

Very truly yours,

THEODORE D. PARSONS,
Attorney General of New Jersey.

By: EUGENE T. URBANIAK,
Deputy Attorney General.

ETU:HH

DECEMBER 17, 1952.

HON. WALTER T. MARGETTS, JR.,
State Treasurer,
State House,
Trenton, New Jersey.

FORMAL OPINION—1952. No. 42.

DEAR MR. MARGETTS:

You ask whether the benefits of Social Security coverage under section 218 of the Federal Social Security Act are available to employees of specified political subdivisions of the State of New Jersey in view of the enactment of chapter 253 of P. L. 1951.

Section 218(b) and (d) of the Social Security Act limits coverage to those individuals who are not already covered under an existing retirement system of the State or of any of its political subdivisions.