be working, were it not for their inability to obtain work that is appropriate for them.' *Altman, Availability for Work* (*Harv. Univ. Press* 1950), *p.* 259. The test is met if it appears that the 'individual is willing, able and ready to accept suitable work which he does not have good cause to refuse, that is when he is genuinely attached to the labor market.' Freeman, *Able to Work and Available for Work* (1945), 55 *Yale L. J.* 123, 124; *Reger* v. *Administrator, Unemployment Compensation Act,* 132 *Conn.* 647, 46 *A.* 2d 844 (*Sup. Ct. of Err.* 1946); *Ludwigsen* v. *N. J. Dept. of Labor & Industry, supra; W. T. Grant Co.* v. *Board of Review, supra; Valenti* v. *Board of Review, supra.*"

The policy set out by the courts in previous cases makes clear that "suitable work" comprises the equivalent in wages and working conditions of work formerly engaged in by the individual, and, further, that the courts held if such work is or becomes available an individual who withholds himself from same because he is engaged in seeking *a job elsewhere,* with a bigger wage, is not within the eligibility sections of the act. *W. T. Grant Co.* v. *Board of Review,* 129 N.J.L. 403 (Sup. Ct. 1943); *Ludwigsen* v. *N.J. Dept. of Labor & Industry,* 12 N.J. 64 (1953). It is clear from the proposal under consideration that setting up vocational training programs would in effect withdraw the trainees from the labor market, and make them, for the duration of their training at least, unavailable for "suitable employment" in direct violation of the principles enumerated in the cases cited above. For that reason the subject proposal is invalid.

Verly truly yours,

DAVID D. FURMAN
Attorney General

By: DAVID A. BIEDERMAN
Deputy Attorney General

November 29, 1961.

HONORABLE NED J. PARSEKIAN
Acting Director, Division of Motor Vehicles
South Montgomery Street
Trenton, New Jersey

FORMAL OPINION 1961—No. 31

DEAR DIRECTOR PARSEKIAN:

You have asked for our opinion as to the legality of your administrative interpretation of the provisions of N.J.S.A. 39:4-204 relating to the issuance of special vehicle identification cards to amputees and other persons. N.J.S.A. 39:4-207 provides that persons exhibiting on their windshield a certificate showing that a special vehicle identification card has been issued for said motor vehicle cannot be penalized for overtime parking unless the vehicle is parked in one location for more than 24 hours.

N.J.S.A. 39:4-204 provides:

"The word 'amputee' as employed herein shall include any person, male or female, who has sustained an amputation of either or both legs, or of parts of

> either or both legs, or of either or both arms, or parts of either or both arms, or who has been otherwise disabled in any manner rendering it difficult and burdensome for him to walk."

You inquire specifically about the interpretation to be given to the words "or who has been otherwise disabled in any manner rendering it difficult and burdensome for him to walk." You advise that on June 15, 1959 pursuant to your directive the application for a special identification card was revised to require the applicant's doctor to certify as to applicants who are not amputees "that the disability listed above affects the applicant's ability to walk to at least the same degree as that experienced by an amputee." Prior to that date the application simply required a doctor's statement describing the disability and certifying that such disability "rendered it difficult or burdensome for him (or her) to walk." You ask whether your interpretation which has applied since June, 1959 is correct.

N.J.S.A. 39:4-204 was enacted by L. 1949, c. 280. This law derived from Assembly Bill No. 109 which did not contain any statement of purpose. The law as originally enacted applied only to a person whose leg or legs had been partly or wholly amputated "or who has been otherwise disabled in any manner rendering it difficult and burdensome for him to walk." As amended by L. 1950, c. 191 (Senate Bill No. 144), "amputee" status was extended to persons who suffered an amputation of all or parts of either or both arms. The statement attached to Senate Bill No. 144 expressed the purpose of that bill as follows: "to enlarge the definition of the word 'amputee' so that persons other than leg amputees, who are *disabled to a similar extent* by virtue of amputation of other limbs may enjoy the privileges and provisions heretofore conferred only on leg amputees." (Emphasis added.)

In our view, the original meaning intended to be given to the phrase "or who has been otherwise disabled in any manner rendering it difficult and burdensome for him to walk" may be inferred from the fact that this phrase followed the definition of "amputee" as a person who had sustained an amputation of either or both legs or of part of either or both legs. It is unlikely that the Legislature would make available to persons who are mildly impaired in their ability to walk the same special parking privileges afforded to persons suffering the grave disability resulting from leg amputations.

The true weight to be given to the words "difficult and burdensome for him to walk" is found in the statement annexed to Senate Bill No. 144, a bill that amended the original Act one year after its first enactment. This statement suggests that the enlargement of the term amputee to include persons who have not suffered an amputation of one or both legs, or parts thereof, was intended to afford special parking privileges only to others who were "disabled to a similar extent" as those who have suffered a leg amputation. The Legislature enlarged the class of amputees to include those who have lost an arm or part thereof. Such a disability normally would not impair the ability of a person to walk. However, the Legislature has permitted special parking permits in such cases, presumably because such disability would seriously hamper a person's ability to perform other physical functions, "to a similar extent" as a person who underwent a leg amputation. As to persons other than those suffering amputations of an arm or leg, the statute requires that his ability to walk be impaired by a physical disability. A person whose limb or limbs have not been amputated and who suffers serious physical disability other than a disability impairing his ability to walk would not be entitled to a special parking permit. An example may be given

of a person suffering from severe arthritis of the arms which may render that person disabled to a large extent from performing many physical functions but not in any way impairing that person's ability to walk. Such a person, though extremely disabled, would not be entitled to a special parking permit.

Thus, in our opinion it was not the intent of the Legislature to extend special parking privileges to persons suffering from minor disabilities. A minor disablement from walking is not sufficient to satisfy the statutory requirement that it be "difficult and burdensome" for the person to walk. In our opinion you should interpret this phrase in your administrative application of the Act so as to issue special vehicle identification cards to only those persons whose ability to walk is seriously impaired. Obviously, persons who are disabled from walking without suffering an amputation are entitled to a special parking permit, but only upon your finding that the disability from walking suffered by a person coming within the statutory definition of "amputee," such as paralysis or severe arthritis of a leg.

This opinion corresponds to the advice given you verbally in July of this year, following your request for an opinion.

Very truly yours,

DAVID D. FURMAN
Attorney General

By: THEODORE I. BOTTER
Assistant Attorney General

December 7, 1961.

HONORABLE KATHARINE E. WHITE
Acting State Treasurer
State House
Trenton, New Jersey

FORMAL OPINION 1961—No. 32

DEAR MRS. WHITE:

I. You have asked certain questions concerning the rights of members of the State retirement systems who receive differential pay when called into active military service with New Jersey National Guard units.

> (1) If the pension deduction and the Social Security tax are to be taken on this differential pay it will sharply reduce the employee's Social Security benefit as well as the salary subject to retirement benefits. Can the Boards of Trustees permit the employee to contribute on the basis of his salary prior to entering the military for pensions and contributory insurance?

Our conclusion is that the Boards of Trustees should require the employee to contribute on the basis of his salary prior to entering the military for pension and contributory insurance.

N.J.S.A. 38:12-4 and N.J.S.A. 38:12-5 provide that when an employee of the State, county or municipality, who is also a member of the National Guard, is called into Federal service, he should be given leave without loss of pay or time. In order to