

of these veterans' accumulated deductions which are specified in N.J.S.A. 18:13-112.4 (a) as:

"The sum of all amounts, deducted from the compensation of a member or contributed by him, including interest credited prior to January 1, 1956, standing to the credit of his individual account in the annuity savings fund."

It can be seen that this provision dealt more with a legislative grant than a return of moneys paid in excess of what the actuarial computations required. In such a situation it is our opinion that the legislative plan does not call for the addition of interest upon the grant. *Swede v. City of Clifton*, 22 N.J. 303 (1956); *Hoboken, Newark, etc. Assn. v. Hoboken*, 23 N.J. Misc. 334 (Sup. Ct. 1945); *Fletcher v. Board of Education*, 85 N.J.L. 1 (Sup. Ct. 1913); *Bourgeois v. Freeholders of Atlantic*, 82 N.J.L. 82, 86, 87 (Sup. Ct. 1911). It is apparent that the Legislature only provided for return of "accumulated deductions as of January 1, 1956" which by statutory definition includes "interest credited prior to January 1, 1956," N.J.S.A. 18:13-112.72 (a), .4(a). Nowhere in the legislative scheme are there provisions relating to veterans' refunds comparable to those concerning excess contributions whereby the moneys may be allowed to earn interest for the member at his election. It follows that since these sums were in effect a generous legislative grant "the plainest and simplest considerations of justice and fair dealing" do not allow payment of interest on such refunds. Cf. *Opinions of the Attorney General, Memorandum Opinions*, (2), dated June 30, 1959.

In conclusion we thus advise you that (1) in the discretion of the Board of Trustees, interest may be paid according to the usual procedures upon excess contributions which refunds were delayed because of administrative process, and (2) there is no authority for the payment of such interest upon delayed refunds of pre-1956 veterans' contributions.

Very truly yours,

DAVID D. FURMAN
Attorney General

By: LEE A. HOLLEY
Deputy Attorney General

JANUARY 31, 1961

HON. FRANCIS X. CRAHAY
Deputy Attorney General in Charge
Sussex County Prosecutor's Office
Court House
Newton, New Jersey

MEMORANDUM OPINION—P-3

DEAR MR. CRAHAY:

I am in receipt of your request for our opinion as to whether or not a defendant who had been convicted a second time for a violation of N.J.S. 39:4-50 is subject to a fine in addition to the mandatory sentence of imprisonment for a term of three months and forfeiture of the right to operate a motor vehicle for a period of ten years.

An examination of the authorities discloses that there are no decisions dealing with this precise point in New Jersey. N.J.S. 39:4-50 being a quasi criminal statute, strict construction must be applied. The omission by the Legislature of any mention of a fine for a subsequent offender, coupled with the severity of the penalty, leads me to the conclusion that a fine may not be imposed in addition to the mandatory sentence for a subsequent offender under this statute.

Very truly yours,

DAVID D. FURMAN
Attorney General

FEBRUARY 28, 1961

MRS. EDWARD L. KATZENBACH
State Board of Education
175 West State Street
Trenton, New Jersey

MEMORANDUM OPINION—P-4

DEAR MRS. KATZENBACH:

You have requested my opinion as to whether the Board of Governors of Rutgers, The State University, may fix the salary of the President of the Corporation and of the University without the approval of the State Board of Education. My conclusion is in the negative.

The provisions of Rutgers, The State University Act of 1956, L. 1956, c. 61, are controlling. The Board of Governors is vested with the appointment power over the President of the Corporation and of the University, with the advice and consent of the Board of Trustees (L. 1956, c. 61, sec. 27). The Board of Governors, in addition, is vested with the power to fix and determine the salaries of all corporate, official, educational and civil administrative personnel, subject to the approval of the State Board of Education (L. 1956, c. 61, sec. 18(8)).

The President of the Corporation and of the University is one of those designated whose salary is fixed and determined by the Board of Governors with the approval of the State Board of Education. Section 18 is limited by section 27, only as to the appointive power over the President. Confirmation by the Board of Trustees is required for this office but is not required for other corporate, official, educational and civil administrative personnel. Section 27 makes no provision for the fixing and determining of the salary of the President of the Corporation and of the University. The general provision of section 18 subjecting all salary schedules to the approval of the State Board of Education, therefore, applies to the salary fixed and determined for the President of the Corporation and of the University and necessitates approval by the State Board of Education.

Very truly yours,

DAVID D. FURMAN
Attorney General