

notification of an election to waive either remuneration before he "shall be eligible to hold any public position or employment." Where a magistrate accepts employment and the obligations thereof, knowing that he is not required to waive his pension or salary, it would be unreasonable to force him to forfeit such position during his term of office because external circumstances changed during such term. However, if at the end of the present term he is reappointed, the magistrate will have to waive his pension.

Very truly yours,

DAVID D. FURMAN
Attorney General

By: LEE A. HOLLEY
Deputy Attorney General

MAY 16, 1961

COLONEL JOSEPH D. RUTTER, *Superintendent*
Division of State Police
West Trenton, New Jersey

MEMORANDUM OPINION—P-9

DEAR COLONEL RUTTER:

We have been asked whether a pension paid to a member of the State Police after retirement for longevity should continue to be paid to his dependent mother after the retiree's death without having left a widow or children. In our opinion, it should not.

R.S. 53:5-5 expressly provides for the payment of a pension to a widow or dependent parent after the death in service of a member of the State Police. The same statute also expressly provides for the continued payment of a pension to the widow of a member of the State Police who dies after retirement. However, it makes no provision for the continued payment of a pension to a dependent parent of a member of the State Police who dies after retirement: In this context, the failure of the Legislature to provide expressly for continued payment of a pension to a dependent parent of a member who dies after retirement must be interpreted as intending that no such payment be made.

Very truly yours,

DAVID D. FURMAN
Attorney General

By: WILLIAM L. BOYAN
Deputy Attorney General