

August 15, 1961

HON. STANLEY E. RUTKOWSKI
Prosecutor, Mercer County
Mercer County Court House
Trenton, New Jersey

MEMORANDUM OPINION—P-17

DEAR PROSECUTOR RUTKOWSKI:

You have asked whether you may, under R.S. 43:10-23, compel the retirement for disability of a member of your staff of detectives.

R.S. 43:10-23 reads as follows:

“Any county detective who shall have received a permanent disability by reason of injury, accident or sickness, incurred at any time in the service, which shall permanently incapacitate him from further duty, shall, upon the certification of the fact of such disability by three physicians designated as hereinafter provided, be retired upon one-half pay.”

This statute was originally enacted by L. 1921, c. 140, § 5. L. 1921, c. 140, R.S. 43:10-19 to 29, provided a comprehensive scheme for retirement of detectives in certain counties for service, age and disability. Consideration of other sections of the 1921 act indicates that it intended to provide for retirement only where application for retirement is initiated by the employee. Section 4, R.S. 43:10-22, provides in part as follows:

“Any county detective who shall have served as such for a continuous period of 20 years * * * who shall be found * * * to be physically unfit for further service, shall, *upon application in writing to the prosecutor* of the pleas of his county, be retired upon one-half pay.” (Emphasis added.)

Section 6 of the 1921 act, R.S. 43:10-24, reads in part as follows:

“* * * The three physicians shall examine the county *detective applying* for retirement upon one-half pay because of physical unfitness or incapacity for further duty * * *.” (Emphasis added.)

Other retirement statutes—namely, R.S. 43:16-2 and N.J.S.A. 43:16A-7 (Police and Firemen's Retirement System); N.J.S.A. 43:15A-42 and N.J.S.A. 43:15A-43 (Public Employees' Retirement System); and N.J.S.A. 18:13-112.41 (Teachers' Pension and Annuity Fund)—specifically provide for retirement on the initiative of the employer, whereas R.S. 43:10-23 excludes all mention of retirement by application of the employer.

Statutes should be interpreted according to the most natural import of the language, and omitted words or provisions should not be supplied by administrative or judicial interpretation unless clearly implied. *Publix Asbury Corp., Inc. v. City of Asbury Park*, 18 N.J. Super. 286, 293 (Ch. Div. 1952), *aff'd* 18 N.J. Super. 192 (App. Div. 1952); 82 C.J.S. *Statutes*, § 328, p. 635.

For these reasons you are hereby advised that you are unable to compel the retirement of a county detective under R.S. 43:10-23.

County detectives are in the classified civil service and may be removed where the fact of physical disability is established after notice and hearing pursuant to R.S. 11:22-38 and Rule 59(c) of the Department of Civil Service.

Very truly yours,

DAVID D. FURMAN
Attorney General

By: ROBERT S. MILLER
Deputy Attorney General

AUGUST 15, 1961

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

MEMORANDUM OPINION—P-18

DEAR DIRECTOR PARSEKIAN :

We have been asked whether the overlength (i.e., the length in excess of 50 feet but not in excess of 70 feet) authorized by R.S. 39:3-84 in the case of "a vehicle or combination of vehicles transporting poles, pilings, structural units or other articles incapable of dismemberment" applies only to the load or also to the vehicle or combination of vehicles where the load does not extend beyond it or them.

L. 1921, c. 208, appears to be the earliest statute limiting the length of motor vehicles which may be operated on the public highways of this State. Paragraph (1) of § 21 of this act forbade combinations of more than two vehicles with the following proviso:

"Any municipality while operating municipally owned vehicle or vehicles under contract over any highway maintained wholly by such municipality may use more than one motor-drawn vehicle, but not exceeding three motor-drawn vehicles in the aggregate while such municipality is engaged in the collection of garbage, ashes, or street repairs."

Paragraph (4) of § 21 generally limited the "extreme over-length" of any vehicle to 28 feet. But it contained the following proviso:

"Where more than one vehicle or trailer is operated, the length of such vehicles may exceed twenty-eight feet; but in no event shall all such vehicles or trailers so drawn or operated exceed eighty-five feet in length over all."

The extreme limit in the proviso of 85 feet appears to have been intended to govern combinations of vehicles utilized by municipalities in the collection of garbage, ashes or street repairs pursuant to paragraph (1) of § 21. No specific limitation of the combined length of a truck and trailer or a tractor and semitrailer was contained in the 1921 act.

The final sentence of paragraph (4) of § 21, applicable both to the general limitation of length and to the proviso read as follows: