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SECOND REPORT OF COMMISSION
Public Employees
TO STUDY NON-CONTRIBUTORY PENSIONS

ESTABLISHED UNDER
JOINT RESOLUTION NO. 7, 1954

TO

THE NEW JERSEY LEGISLATURE

JANUARY 1956

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TO THE LEGISLATURE OF THE STATE OF NEW JERSEY

There is herewith submitted the second report of the Commission to study Non-Contributory Pensions, established under Joint Resolution No. 7, 1954. With this report the work of the Commission is terminated. The adoption of the recommendations contained herein will complete the legislative program to bring order in the field of non-contributory public employee pension legislation.

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Second Report of Commission to Study Non-Contributory
Pensions

I. Establishment and First Report of Commission

The Commission to Study Non-Contributory Public Employee Pensions was initially established under Joint Resolution No. 6, 1953. As a result of the fact that several of the original legislative members became ineligible for membership following changes in public office, the Commission was continued under Joint Resolution No. 7, 1954, with several new legislative members appointed.

The purpose of the Commission and the scope of its field of inquiry is set forth in the 1953 Resolution:

"WHEREAS, Studies by the Bureau of Governmental Research of the State University indicate that there are more than seventy laws authorizing or requiring the payment of noncontributory retirement benefits to employees of the State Government and of local governments; and

WHEREAS, There are no accurate data available on the existing and potential liabilities which the taxpayers will be called upon to assume to redeem the promises given or implied by these laws; and

WHEREAS, Many of these laws overlap and serve no useful public purpose; and

WHEREAS, it is desirable that the retirement laws of this State be simplified and made reasonably consistent as between employees and governmental units....."

"It shall be the duty of the commission to examine and study the laws of the State of New Jersey dealing with the retirement of persons employed by the State Government or by any political subdivision thereof; provided, however, that such study shall be limited to the examination of retirement laws to which employees do not contribute and shall not be extended to include any examination of contributory retirement laws or pension systems except as such systems may be studied for the purposes of comparison with noncontributory retirement laws and pension systems"

In its first report, the Commission dealt with non-contributory pension acts affecting all levels of government within the State other than the judiciary. This report presents the Commission's findings with regard to the laws establishing non-contributory pensions for officers of the judiciary and their survivors. These laws are summarized in Appendix A.

II. The Problem

A. Miscellaneous Acts

There are at present nine laws providing for non-contributory pensions for members

of the judiciary or their survivors. Of these nine acts, eight were either designed to provide benefits for specific individuals or to cover situations which have no future significance. Among the former type is Chapter 392, P. L. 1948 which increased the amount of a then existing pension of a retired vice-chancellor who had thirty-five years of service as vice-chancellor. On the other hand, R.S.43:6-1 to R.S.43:6-6, sections of which were first enacted in 1908, established non-contributory pensions for officers of the State judicial system in effect until 1948. With the establishment of the present State judiciary, and the enactment of Chapter 391, P.L. 1948, providing for pension coverage for officers of the new courts, the statutes affecting members of the former court system ceased to have future applicability. So long as the pensions and benefits already established under these existing laws are continued, there is no reason why these eight statutes should not be repealed.

B. The Present Judges' Retirement Act

Considerably different are the problems arising out of the enactment of Chapter 391 P.L. 1948, referred to above.

With the adoption of the 1947 Constitution and its revision of the court structure of the State, it became necessary to at least amend the laws pertaining to judges' retirement so that the pension laws conformed with the terminology in the new Constitution. The Legislature took this opportunity to provide an entirely new retirement program for the judiciary.

The 1948 pension legislation provided that all Supreme and Superior Court Judges who attained age 70* and who had served 10 years in the aggregate in either of the above courts, or as Chief Justice or Associate Justice of the old Supreme Court, Judge of any Circuit Court, Chancellor, Vice Chancellor, Judge of the Court of Errors and Appeals, or Judge of the Court of Common Pleas, would be paid a pension at 3/4 of annual salary at the time of retirement. The new pension laws continued the provision permitting the Governor, after approval of three doctors and upon application, to retire any of these judges for incapacitation. Furthermore, survivorship benefits were granted

*Mandatory Constitutional retirement age.

in the form of an annual pension of $1/4$ salary to widows of any of the covered judges payable upon death while an active judge or after retirement. The only restriction placed upon this benefit was that the judge must have been married to the claimant before he reached the age of 50.

Since these pensions are non-contributory, the total expense is borne by the State. Payments are made by annual appropriations as retirement or death claims arise. The effect upon past State appropriations is given in the following table:

EXPENDITURES FOR PENSIONS OF STATE JUDICIAL OFFICERS

<u>Fiscal Year</u>	<u>Expended</u>
1946 - 1947	\$ 34,429.19
1947 - 1948	38,771.89
1948 - 1949	78,477.65
1949 - 1950	128,569.42
1950 - 1951	129,361.13
1951 - 1952	149,507.73
1952 - 1953	162,849.58
1953 - 1954	194,099.84
1954 - 1955	221,770.00*
1955 - 1956	222,850.00*

*Appropriation

At the Commission's direction, an actuarial analysis was made of the judges' retirement act in its application to the current members of the Supreme and Superior Courts.

This study revealed that the State's annual outlay for judicial pensions should increase gradually in the future, reaching anticipated maximum of \$329,000 in 1977 for the present members of the two Courts.

In its study of the judges' retirement act, the Commission analyzed the pension treatment of judicial officers of other states and of the legal counsel of various New Jersey corporations. The study included full consideration of the various pros

and cons regarding the existing law. In arriving at its recommendations, the Commission was mainly guided by the following thoughts:

1. Basic to the efficient functioning of the new New Jersey Court System, which is recognized as being outstanding throughout the country, is the obtaining of lawyers of the highest calibre to serve as members of the Superior and Supreme Courts. To do this the Court must offer, in addition to prestige, sufficient financial security to attract outstanding lawyers who are at the peak of their careers, in competition with the financial attractions of private practice or some business association.

2. Since the Courts need experienced lawyers, the average age of appointment to the two New Jersey Courts has been fifty-four. It is therefore impossible to establish a joint contributory system on the same basis as those systems covering many State and local employees. Even a token payment by the members of the Court would, in view of Federal tax liabilities, represent a substantial decrease in individual "take home" pay while at the same time offsetting very little of the cost of the program to the State.

3. The New Jersey State Constitution forbids any diminution of the emoluments of members of the Superior and Supreme Courts during their terms of office. While this would appear to leave the door open for establishing a plan of lesser benefits for future members of the Courts, the Commission feels that such a step would seriously diminish the effective recruitment of able lawyers and would, therefore, be injurious to the public interest in having the best possible court system.

4. The present pension formula results in an automatic increase in benefits with any future salary increase. The Commission feels that the present level of pension and death benefit protection is sufficiently attractive and should not be increased until such time as this level is clearly deficient in terms of our economic guideposts. The Commission's approach would mean that in the event of a salary increase the State would not in addition be faced with an increased cost for pensions.

III. Commission's Recommendations

The Commission makes the following recommendations:

1. That the following statutes be repealed:

R.S. 43:6-1 to 6-6; R.S. 43:6-7; P.L. 1946, Chapter 6; P.L. 1948, Chapter 392;
P.L. 1948, Chapter 393; P.L. 1949, Chapter 178; P.L. 1949, Chapter 181;
P.L. 1949, Chapter 260. (Described in Appendix A)

Pensions already established under the above acts should be continued.

2. That the non-contributory pension benefits payable to members of the Supreme and Superior Courts be fixed at their present monetary level, provided that these benefits shall not be less than 60% of salary at time of retirement. In the case of a Supreme Court Justice, this would mean that the pension would be \$18,000 until such time as the salaries of members of that Court exceeded \$30,000, at which time the pension would amount to 60% of salary. The pension payable to a member of the Superior Court would remain at \$15,000 until salary exceeded \$25,000. In order to be consistent, payments to widows of members of the courts should follow the same pattern, being fixed at one-third of the pension payable to the husband.

In order to accomplish these recommendations, the Commission submits in Appendix B and C the draft of two proposed acts, one dealing with the statutes to be repealed and the other amending the present judges' retirement act.

APPENDIX A

List of Judicial Non-Contributory Pension Laws

<u>No.</u>	<u>Statute</u>		<u>Persons or Positions Covered</u>	<u>Age</u>	<u>Yrs. of Service</u>	<u>Amt. of Pension</u>	<u>Disability Required</u>
	<u>From</u>	<u>To</u>					
1.	43:6-6.4	43:6-6.10	State Judicial Officers (New court system)	70	10	3/4 salary	
2.	43:6-1	43:6-6	State Judicial Officers (Old court system)	70	14	1/2 salary	x
3.	43:6-6.1	43:6-6.3	Retired vice chancellor (Increases existing Pension)		35	3/4 salary	
4.	43:6-6.11		Advisory Master of Court of Chancery	77	25	\$8000.	
5.	43:6-7		Associate Justice of Supreme Court (Not reappointed)	68	More than 20	1/2 salary	
6.	43:6-7.1		Judge of Court of Errors and Appeals (Must have attained age 64 before act passed)	64 in 1946	15	\$6000.	
7.	43:6-7.2	43:6-7.3	Judge of Court of Errors and Appeals	70 in 1948		\$9000.	
8.	43:9-25	43:9-27	Full time District Court Judges (Retired as of 5/20/49) (Increases Pension)	79 at ret.	36	1/2 salary	
9.	43:9-24		County Judge, Common Pleas Court in First Class County (Increases existing pension) Retired as of 5/20/49		27	\$8000.	

APPENDIX B

AN ACT repealing certain statutes relating to pensions.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. The following Acts are hereby repealed:

Sections 43:6-1 to 43:6-6, both inclusive; and 43:6-7, of the Revised Statutes, and Chapter 6 of the Laws of 1946, Chapter 392 of the Laws of 1948, Chapter 393 of the Laws of 1948, Chapter 178 of the Laws of 1949, Chapter 181 of the Laws of 1949, and Chapter 260 of the Laws of 1949.

2. No pension may be granted under the provisions of any statute repealed by this act after the date when this act becomes effective but any pension granted prior to the effective date of this act under the provisions of any such statute shall be continued in the same manner and under the same conditions as originally granted.

3. This act shall take effect immediately.

APPENDIX C

An Act amending "An Act concerning the retirement and death of certain judicial officers and payments to be made as a result thereof." approved September 13, 1948. (P. L. 1948, c. 391)

1. Section 1 of the act to which this act is amendatory is amended to read as follows:

1. Any Chief Justice of the new Supreme Court, any Associate Justice of the new Supreme Court, or any Judge of the Superior Court who (a) shall have served at least ten years in the aggregate in one or more of the judicial offices of Chancellor, Chief Justice of the old Supreme Court, Associate Justice of the old Supreme Court, judge of the circuit court, Vice-Chancellor, Judge of the Court of Errors and Appeals, judge of the court of common pleas, Chief Justice of the new Supreme Court, Associate Justice of the new Supreme Court, or Judge of the Superior Court, and (b) shall be retired upon attaining the age of seventy years under the provisions of Art. VI, Sec. VI, Par. 3, of the Constitution of one thousand nine hundred and forty-seven, shall be paid thereafter an annual pension during the remainder of his natural life in an amount equal to three-fourths of the annual salary received by persons of his class [him] as of the effective date of this act provided, however that such pension shall not be less than 60% of the annual salary received by him at the time of his retirement.

2. Section 2 of the act to which this act is amendatory is amended to read as follows:

2. Whenever a person (a) holds the office of Chancellor, Chief Justice of the old Supreme Court, Associate Justice of the old Supreme Court, judge of the circuit court, Vice-Chancellor, Chief Justice of the new Supreme Court, Associate Justice of the new Supreme Court, or Judge of the Superior Court, and (b) shall have served at least ten years in the aggregate in one or more of the judicial offices of Chancellor, Chief Justice of the old Supreme Court, Associate Justice of the old Supreme Court, judge of the circuit court, Vice-Chancellor, Judge of the Court of Errors and Appeals,

judge of the court of common pleas, Chief Justice of the new Supreme Court, Associate Justice of the new Supreme Court, or Judge of the Superior Court, and (c) has attained the age of seventy years or more, he may retire from such service upon filing his resignation of his judicial office in the office of the Secretary of State accompanied by the statement that it is so filed for the purpose of taking advantage of the provisions of this act. He shall be paid thereafter an annual pension during the remainder of his natural life in an amount equal to three-fourths of the annual salary received by persons of his class [him] as of the effective date of this act provided, however that such pension shall not be less than 60% of the annual salary received by him at the time of his retirement.

3. Section 3 of the act to which this act is amendatory is amended to read as follows:

3. Any Chancellor, Chief Justice of the old Supreme Court, Associate Justice of the old Supreme Court, judge of the circuit court, Vice-Chancellor, Chief Justice of the new Supreme Court, Associate Justice of the new Supreme Court or Judge of the Superior Court who (a) shall have served at least ten years in the aggregate in one or more of the judicial offices of Chancellor, Chief Justice of the old Supreme Court, Associate Justice of the old Supreme Court, judge of the circuit court, Vice-Chancellor, Judge of the Court of Errors and Appeals, or judge of the court of common pleas, and (b) shall have attained the age of seventy years or more when his term of office expires, and (c) shall be, because of age, subject to compulsory retirement or ineligible for reappointment, shall be paid thereafter an annual pension during the remainder of his natural life in an amount equal to three-fourths of the annual salary received by persons of his class [him] as of the effective date of this act provided, however, that such pension shall not be less than 60% of the annual salary received by him at the time of his retirement.

4. Section 4 of the act to which this act is amendatory is amended to read as follows:

4. If the Chief Justice of the new Supreme Court, any Associate Justice of the new Supreme Court, or any Judge of the Superior Court, shall, while in office, become physically or otherwise incapacitated for full and efficient service to the State in his judicial capacity, he may give notice thereof and of his desire to retire to the Governor. The Governor shall thereupon appoint three physicians of skill and repute in their profession and residents of this State, who shall examine the applicant for retirement and report to the Governor as to his physical or other disability and whether in all reasonable probability, if they find the disability existent, it will continue permanently and does and will continue to prevent the applicant from giving full and efficient service to the State in the performance of his judicial duties. If it is made to appear by such report that the disability exists and that it will in all reasonable probability continue permanently and if the Governor approves the report the Governor shall file it with his approval endorsed thereon in the office of the Secretary of State. Upon such filing of the report, the applicant shall be retired and he shall thereafter be paid an annual pension during the remainder of his natural life in an amount equal to three-fourths of the annual salary received by persons of his class [him] as of the effective date of this act provided, however, that such pension shall not be less than 60% of the annual salary received by him at the time of his retirement.

5. Section 5 of the act to which this act is amendatory is amended to read as follows:

5. Whenever any person holding the office of Chancellor, Chief Justice of the old Supreme Court, Associate Justice of the old Supreme Court, judge of the circuit court, Vice-Chancellor, Chief Justice of the new Supreme Court, Associate Justice of the new Supreme Court, or Judge of the Superior Court shall die while in office or shall die after retirement on a pension payable under the provisions of this act and, in either case, shall leave a widow surviving him whom he married before

he had attained the age of fifty years, an annual pension shall be paid thereafter to such surviving widow, so long as she lives and remains unmarried in an amount equal to one-third of the annual pension which would have been payable to her deceased husband had he been eligible under the provisions of this act. (One-fourth of the annual salary received by her deceased husband at the time of his death or retirement, as the case may be.)

6. This act shall take effect immediately.