

VETOES OF 1953

BILLS RETURNED TO THE LEGISLATURE BY THE GOVERNOR, WITH HIS OBJECTIONS THERETO, DURING ITS REGULAR SESSION ENDING JULY 27, 1953.

No. 1

AN ACT

To further amend section one of the act, approved the twenty-sixth day of April, one thousand nine hundred forty-five (Pamphlet Laws 318), entitled "An act to regulate the sale and possession of penicillium (penicillin), and its derivatives, preparations and compounds in the interest of public health," by providing certain exceptions to said act.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section one of the act, approved the twenty-sixth day of April, one thousand nine hundred forty-five (Pamphlet Laws 318), entitled "An act to regulate the sale and possession of penicillium (penicillin), and its derivatives, preparations and compounds in the interest of public health," as last amended by the act, approved the thirtieth day of June, one thousand nine hundred fifty-one (Pamphlet Laws 955), is hereby further amended to read as follows:

Section 1. The drug known as penicillium (penicillin) and any of its derivatives, preparations or compounds of the same, except penicillin teat dilators and veterinarian ointment for mastitis, and *penicillium (penicillin), its derivatives, preparations and compounds when used in the supplementation of animal or poultry feeds and animal or poultry feeds when so supplemented, not intended for human consumption*, shall not be sold at retail or dispensed to any person, except upon the written prescription of a duly licensed physician, dentist or veterinarian, compounded or dispensed by a registered pharmacist, or under the immediate personal supervision of a registered pharmacist, and no pharmacist shall dispense any such drug without affixing to the container in which the drug is sold or dispensed a label bearing the name and address of the pharmacist, the date compounded, and the consecutive number of the prescription under which it is recorded in his prescription files, together with the name of the physician, dentist or veterinarian prescribing it: Provided, That the provisions of this section of this act shall not apply to a duly licensed physician, dentist or veterinarian: Provided, however, That they keep a record of the amount of such drugs purchased and a dispensing record show-

ing the date, name and the quantity of the drugs dispensed, and the name and address of the patient. No physician, dentist or veterinarian shall dispense any such drug without affixing to the container in which the drug is sold or dispensed a label bearing the name and address of the dispenser, the date dispensed, the name and address of the patient, and the directions for the use of the drug by the patient.

Commonwealth of Pennsylvania,
Governor's Office,
Harrisburg, June 4, 1953.

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

I return herewith, without my approval, Senate Bill No. 474, Printer's No. 170, entitled "An act to further amend section one of the act, approved the twenty-sixth day of April, one thousand nine hundred forty-five (Pamphlet Laws 318), entitled 'An act to regulate the sale and possession of penicillium (penicillin), and its derivatives, preparations and compounds in the interest of public health,' by providing certain exceptions to said act."

This bill further amends Section 1 of the Act by providing a further exception to the provisions of said act which regulates the sale and possession of penicillium (penicillin), and its derivatives, preparations and compounds in the interest of public health by prohibiting the retail sale or dispensing of penicillium and its derivatives, preparations and compounds without the written prescription of a duly licensed physician, dentist or veterinarian.

This bill would permit retail sales and the dispensing of penicillium and its derivatives, preparations and compounds without a written prescription when the drug is used to supplement animal or poultry feeds that are not intended for human consumption. It does not, however, contain adequate safeguards to insure the proper use of the drug for these purposes. Under its present form, anyone could acquire the drug without a written prescription if it is alleged that it would be used to supplement animal or poultry feeds; also, when penicillium is used for these purposes, it appears that all provisions of the Act of 1945, supra, are to be suspended.

However desirable the use of the drug to supplement animal or poultry feeds might be, an exception to the Act of 1945, supra, which would also allow all purposes of the act to be defeated by circumvention under the guise of using the drug for animal or poultry feeds must be prevented.

For these reasons, the bill is not approved.

JOHN S. FINE

No. 2

AN ACT

To further amend the act, approved the first day of May, one thousand nine hundred thirty-three (Pamphlet Laws 103), entitled "An act concerning townships of the second class; and amending, revising, consolidating, and changing the law relating thereto," by providing for the appointment of boards of health and health officers; prescribing their powers and duties; providing for

the enforcement of the administration of health laws by such board and officers; providing for a president and secretary of such boards; imposing duties on the Secretary of Health, and providing for payments of expenses by townships.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The act, approved the first day of May, one thousand nine hundred thirty-three (Pamphlet Laws 103), entitled "An act concerning townships of the second class; and amending, revising, consolidating, and changing the law relating thereto," as reenacted, amended and revised by the act, approved the tenth day of July, one thousand nine hundred forty-seven (Pamphlet Laws 1481), is hereby further amended by adding, after Article XIX thereof, a new article to read as follows:

ARTICLE XIX-A

BOARD OF HEALTH

Section 1901-A. Establishment of Board of Health; Officers.—The administration of the health laws in townships may be enforced by a board of health or by a health officer or officers, as the case may be, appointed by the township supervisors.

Where the township supervisors elect to appoint a health officer or officers, the said health officer or officers shall have the same powers and duties and exercise the same authority as is prescribed for boards of health in townships. All health officers, whether appointed by boards of health or by the township supervisors, shall have had some experience or training in public health work in accordance with rules and regulations established by the Advisory Health Board of the State Department of Health. Such health officers shall not enter upon the performance of their duties until they are certified so to do by the State Department of Health.

Section 1902-A. Members of Board of Health.—Where the township supervisors decide to appoint a board of health, said board shall be composed of five members, at least one of whom shall be a reputable physician of not less than two years experience in the practice of his profession. The members of the board shall be appointed by the township supervisors. At the first appointment, one member shall be appointed to serve for one year, one for two years, one for three years, one for four years, and one for five years; and thereafter, one member shall in like manner be appointed each year to serve for five years. The members of the board of health shall serve without compensation, but if any member of the board shall be elected to the office of secretary he shall be entitled to receive a salary fixed by the board for that office.

Section 1903-A. Oaths of Members; Secretary and Health Officer.—The members of the board shall severally take and subscribe to the oath prescribed by section five hundred one of this act; and shall annually organize, by electing a president from among the members of the board, a secretary who may or may not be a member of the board, and a health officer who shall not be a member of the board. The secretary and the health officer shall receive such salary as may be fixed by the board and ratified by the township supervisors, and shall serve for a period of one year or until such time thereafter as their successors may be elected and qualified. They shall severally give bond to the

township, in such sums as may be fixed by ordinance, for the faithful discharge of their duties, and shall also take and subscribe to the oath required by members of the board.

Section 1904-A. Duties of Secretary.—The secretary of the board shall keep the minutes of the proceedings of the board, shall keep accurate accounts of the expenditures of the board, shall draw all requisitions for the payment of moneys on account of the board of health from appropriations made by the supervisors to the board and shall present the same to the president of the board for his approval, shall render statements of the expenditures to the board at each stated meeting or as frequently as the board may require, shall prepare under the directions of the board the annual report to the township supervisors, together with the estimate of appropriation needed for the ensuing year. He shall report to the State Department of Health, at the end of each week and for the fraction of each week occurring at the end of the month, the cases of communicable disease reported to the board of health, on the form provided for that purpose by such department, and shall also make an annual report to such department and shall make such other reports and perform such other duties as the board may require.

Section 1905-A. Powers and Duties of Health Officer.—It shall be the duty of the health officer to attend all stated and special meetings of the board of health and at all times be ready and available for the prompt performance of his official duties. He shall placard and quarantine all premises upon which cases of communicable disease exist, which have been reported to the board of health or of which he or the board of health may have knowledge, which are required by law or by regulation of the State Department of Health or of the local board of health to be placarded and quarantined, and shall disinfect such premises upon the expiration of the quarantine period and the recovery of the last person therein suffering from such disease. He shall serve written notice on teachers and persons in charge of public, parochial, Sunday and other schools requiring the exclusion from school of children who are suffering from or who reside in the same premises with other persons who are suffering from communicable diseases, and shall make sanitary inspections and shall execute the orders of the board of health and shall, in the performance of his duties, have the power and authority of a policeman.

Section 1906-A. Powers of Board of Health.—The board of health shall have the power and it shall be its duty to enforce the laws of the Commonwealth, the regulations of the State Department of Health, and to make and enforce such additional rules and regulations to prevent the introduction and spread of infectious or contagious diseases, by the regulation of intercourse with infected places, by the separation of infected persons and persons who shall have been exposed to any infectious or contagious disease, and by abating and removing all nuisances which the board shall deem prejudicial to the public health; to mark infected houses or places, to prescribe rules for the construction and maintenance of house-drains, wash-pipes, soil-pipes and cesspools, and to make all such other rules and regulations as shall be deemed necessary for the preservation of the public health. The board shall also have power, with the consent of the township supervisors, in case of a prevalence of any contagious or infectious disease,

to establish one or more emergency hospitals and to make provisions and regulations for the maintenance and management of the same.

The board shall also have the power to make, enforce and cause to be published, all necessary rules and regulations not inconsistent with law for carrying into effect the powers and functions with which they are invested by law and the power and authority relating to the public health conferred on the townships. Such rules and regulations, when approved by the township supervisors and when advertised in the same manner as ordinances, shall have the force of ordinances of the township, and all penalties or punishment prescribed for the violation thereof, as well as the expenses actually and necessarily incurred in carrying such rules and regulations into effect, shall be recoverable for the use of the township in the same manner as penalties for violation of the ordinances of the township and subject to like limitations as to the amount thereof.

Section 1907-A. Entry Upon Premises.—The board of health shall have the power as a body or by committee, as well as the health officer, together with their assistants, subordinates and workmen, under and by order of the said board, to enter at any time upon any premises in the township upon which there is suspected to be any infectious or contagious disease or nuisance detrimental to the public health, for the purpose of examining and abating the same.

Section 1908-A. Inspections; Abatement of Nuisances.—The board of health may inspect house-drains, waste and soil-pipes, cesspools, water-closets, slaughter-houses, hog-pens, stable, stable-yards and any conditions or places whatsoever in the township which may constitute a nuisance or a menace to public health, and whenever any condition or place in the township is found by the board to be a nuisance or a menace to the health of the people of the township, it shall issue a written order of abatement, directed to the owner or agent of the owner of the premises, stating that the conditions specified therein constitute a nuisance or a menace to health and ordering an abatement thereof within such time as may be specified by them in such order. In case such order of abatement is not obeyed within the time specified therein, the board shall thereupon issue a further written order to the health officer directing him to remove or abate the same, which order shall be executed by him and his subordinates and workmen, and the expense thereof shall be recoverable from the owner of the premises upon or from which the nuisance or menace to health is abated or removed in the same manner as debts of like character are now collected by law, or the said board of health may proceed to enforce such other remedy or inflict such penalty as may be provided by ordinance of the township.

Section 1909-A. Estimates of Expenditures; Report.—It shall be the duty of the board of health or appointed health officer or officers to submit annually to the supervisors, before the commencement of the fiscal year, an estimate of the probable expenditures of the board during the ensuing year, and the supervisors shall then proceed to make such appropriations as may be deemed necessary. The board of health, health officer or officers shall, in the month of January of each year, submit a report in writing to the supervisors of its appropriation and expenditures for the preceding year, together with such other information as subjects relative to the sanitary conditions or requirements of

the township as may be necessary, and the supervisors shall publish the same in their official journal.

Section 1910-A. Cooperation With Other Units.—Any township may cooperate with the county or with any city, borough or township, as well as with the State Department of Health, in the administration and enforcement of health laws.

Section 1911-A. Powers of Secretary of Health.—Whenever, in the opinion of the Secretary of Health, conditions found by him to exist in any township shall constitute a menace to the lives and health of people living outside the corporate limits of such township, or if it be known to him that any township is without an existing or efficient board of health, he or his agents may enter and take full charge of and administer the health laws, regulations and ordinances in such township, and may continue in charge thereof until he shall decide that a competent and efficient board of health has been appointed and qualified for such township and is ready, able and willing to assume and carry into effect the duties imposed upon it by law.

Section 1912-A. Expenses of Board or Secretary of Health.—All expenses incurred by any local board of health, its officers or employes, in the performance of the duties imposed upon it by law, and all expenses incurred by the Secretary of Health or his agents in accordance with the provisions of this article, shall be paid by the township wherein such duties are performed, in the same manner as other expenses of such township are paid.

Section 1913-A. Failure to Pay Expenses Incurred by State Secretary.—Whenever expenses incurred by the Secretary of Health or his agents in the administration of health laws in any township in accordance with the provisions of this article shall remain unpaid by said township for a period over three months after a statement of such expense has been rendered by him to such township and demand for payment by him made, he shall, with the approval of the Governor, institute in the name of the Commonwealth as plaintiff an action of assumpsit against such township for the collection of such expense from the township, in the same manner as debts of like amount are collected by law: Provided, however, That upon the trial of any such action of assumpsit, the reasonableness of the expenditures made by the Secretary of Health shall be submitted to the jury for its determination.

Section 1914-A. Disposition of Collected Funds.—All expenses incurred by the Secretary of Health in the administration of health laws in any township, when paid to him by such township or when collected by him, shall be returned by him to the State Treasurer, who shall credit the amount so received to the appropriation made to the Department of Health.

Commonwealth of Pennsylvania,
Governor's Office,
Harrisburg, July 3, 1953.

To the Honorable, the House of Representatives of the Commonwealth of Pennsylvania:

I return herewith, without my approval, House Bill No. 1003, Printer's No. 187, entitled "An act to further amend the act, approved the first day of May, one thousand nine hundred thirty-three (Pam-

phlet Laws 103), entitled 'An act concerning townships of the second class; and amending, revising, consolidating, and changing the law relating thereto,' by providing for the appointment of boards of health and health officers; prescribing their powers and duties; providing for the enforcement of the administration of health laws by such board and officers; providing for a president and secretary of such boards; imposing duties on the Secretary of Health, and providing for payments of expenses by townships.'

This bill would permit a second class township to establish a board of health and appoint a health officer or officers to enforce and administer all health laws and regulations pertaining thereto of the State Department of Health and the Advisory Health Board in said township. It further authorizes said board to make and enforce such additional rules and regulations, not inconsistent with law, for carrying into effect the powers and functions with which these townships are vested by law and this bill.

After a most thorough study of the problems of public health in Pennsylvania by experts in that field, it was recommended that the administration and enforcement of the public health laws could best be done at the county level. This was adopted as the policy of this administration and was accepted by the Legislature in their enactment of the Local Health Administration Law, the Act of August 24, 1951, P. L. 1304, which provided for the establishment of county departments of health.

To provide for the establishment of new local units not now in existence would hinder and discourage the development of these county units, and might lead the public and health authorities to conclude that I now favor administration of the health laws on other than a county basis.

Although the establishment of county health units has not progressed as rapidly as I had hoped, insufficient time has passed since the enactment of the law providing for them to give this program a fair trial.

Believing the development of county departments of health should not be discouraged in any way until additional time is given for their establishment, I feel this bill should be vetoed.

For these reasons, the bill is not approved.

JOHN S. FINE

No. 3

AN ACT

To amend subsection (e) of section three of the act, approved the nineteenth day of March, one thousand nine hundred fifty-one (Pamphlet Laws 28), entitled "An act relating to the civil defense of this State and its coordination with national defense; providing for the establishment of a State Council of Civil Defense, local and district councils of civil defense, Mobile Support Units; prescribing the powers, duties and immunities thereof and of their personnel; authorizing mutual aid compacts, and providing penalties," by establishing the State Council of Civil Defense a departmental administrative board within the Department of Military Affairs.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Subsection (e) of section three of the act, approved the nineteenth day of March, one thousand nine hundred fifty-one (Pamphlet Laws 28), entitled "An act relating to the civil defense of this State and its coordination with national defense; providing for the establishment of a State Council of Civil Defense, local and district councils of civil defense, Mobile Support Units; prescribing the powers, duties and immunities thereof and of their personnel; authorizing mutual aid compacts, and providing penalties," is hereby amended to read as follows:

Section 3. Organization of Council.—

* * * * *

(e) The Council, *when created, shall be a departmental administrative board within the Department of Military Affairs, and shall be subject to the provisions of The Administrative Code of 1929, the act of April ninth, one thousand nine hundred twenty-nine, Pamphlet Laws 177, as amended, which apply generally to departmental administrative boards and commissions, except as in this act otherwise provided.*

Commonwealth of Pennsylvania,
Governor's Office,
Harrisburg, July 6, 1953.

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

I return herewith, without my approval, Senate Bill No. 410, Printer's No. 129, entitled "An act to amend subsection (e) of section three of the act, approved the nineteenth day of March, one thousand nine hundred fifty-one (Pamphlet Laws 28), entitled 'An act relating to the civil defense of this State and its coordination with national defense; providing for the establishment of a State Council of Civil Defense, local and district councils of civil defense, Mobile Support Units; prescribing the powers, duties and immunities thereof and of their personnel; authorizing mutual aid compacts, and providing penalties,' by establishing the State Council of Civil Defense a departmental administrative board within the Department of Military Affairs."

This bill makes the State Council of Civil Defense a departmental administrative board within the Department of Military Affairs.

The State Council of Civil Defense is a temporary organization which may be created and dissolved by the Governor by proclamation. It consists of the Governor, the Adjutant General, the Auditor General, the Secretary of Internal Affairs, the Legislative Representatives of both majority and minority parties of the General Assembly, as well as five citizens appointed by the Governor. It seems incongruous therefore to place this organization within the Department of Military Affairs under the Adjutant General. It is also to be noted that it is a civilian body, yet it is placed under the budgetary control of the Department of Military Affairs. This is contrary to long established and traditional policy in American government. Article I, Section 22 of our Constitution reads in part "the military shall in all cases and at all times be in strict subordination to the civil power."

The bill is not in accordance with the recommendations of the State Government Survey Committee Report. On page ST-6 that Committee said :

“The Department of Military Affairs and the Civil Defense Council should be transferred to the proposed State Administration. The separate entities of these two agencies should be retained in their respective civilian and military functions with continued full cooperation between the two.”

This bill would destroy the policy which the Survey Committee recommends should be continued.

The State Administration was to include the functions now located in five independent departments. See page Organ-7 of the Report. This legislation has not been enacted.

We know of no savings in money or personnel which would result if this bill became law.

The Department of Military Affairs is not sympathetic to the bill.

The Director of Civil Defense calls attention to the fact that a number of individuals have reported that there is a strong resentment to the bill because people believe that it would result in military control over civilian volunteers performing civilian duties.

For these reasons, the bill is not approved.

JOHN S. FINE

VETOES

BILLS FILED IN THE OFFICE OF THE SECRETARY OF THE COMMONWEALTH BY THE GOVERNOR, WITH HIS OBJECTIONS THERETO, WITHIN THIRTY DAYS AFTER THE ADJOURNMENT OF THE LEGISLATURE ON THE TWENTY-SEVENTH DAY OF JULY, 1953.

No. 4

AN ACT

Authorizing the Department of Property and Supplies, with the approval of the Governor, to acquire a tract of land and building thereon in the Borough of Indiana, Indiana County, Pennsylvania, for the use of Indiana State Teachers' College; and making an appropriation.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The Department of Property and Supplies, with the approval of the Governor, is hereby authorized to purchase in the name of the Commonwealth of Pennsylvania, for use by the Indiana State Teachers' College, a tract of land with a building thereon in the third ward of the Borough of Indiana, Indiana County, Pennsylvania, bounded and described as follows:

On the east by Eleventh Street, on the north by lot No. 10, now the property of Uncapher, on the west by an alley, and on the south by lot No. 12, now the property of Charles Gessler, fronting on said Eleventh Street fifty feet and extending back of equal width one hundred eighty feet to said alley, having thereon erected a two story frame dwelling house. Being lot No. 11 in the plot or plan of lots laid out by Wilson Sutton and Clark and known as the Wilson Sutton and Clark Addition to West Indiana, now Indiana.

And being the same land conveyed to Mrs. Jennie G. Lowman by deed of Margaret Gibson (single) by deed dated May 9, 1919, and recorded in Indiana County, Deed Book Volume 173, at page 22.

Section 2. Such property shall not be acquired until title thereto has been approved by the Department of Justice.

Section 3. The sum of nineteen thousand dollars (\$19,000), or as much thereof as may be necessary, is hereby appropriated to the Department of Property and Supplies for the payment of the purchase price of such property and the expenses incidental thereto, including the completion of an abstract of title thereon.

Section 4. The provisions of this act shall become effective immediately upon final enactment.

Commonwealth of Pennsylvania,
Governor's Office,
Harrisburg, August 22, 1953.

I file herewith, in the Office of the Secretary of the Commonwealth, with my objections, Senate Bill No. 652, Printer's No. 373, entitled "An act authorizing the Department of Property and Supplies, with the approval of the Governor to acquire a tract of land and building thereon in the Borough of Indiana, Indiana County, Pennsylvania, for the use of Indiana State Teachers' College; and making an appropriation."

This bill would authorize the Department of Property and Supplies to acquire a tract of land with a dwelling house erected thereon in the Borough of Indiana, adjacent to the campus, to provide additional housing for the faculty.

No provision was made for this appropriation in the budget and there are no funds available to allow the approval of this bill. While the expenditure of State funds for this purpose might be desirable, I am of the opinion that expenditures should be limited to matters that are necessary and provided for in the budget.

For these reasons, the bill is not approved.

JOHN S. FINE

No. 5

AN ACT

Making an appropriation to the Department of Property and Supplies for the payment of the Commonwealth's share in certain capital improvements to the water facilities of the Philipsburg State Hospital.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The sum of twenty-one thousand dollars (\$21,000), or as much thereof as may be necessary, is hereby specifically appropriated to the Department of Property and Supplies for payment of the Commonwealth's share toward certain capital improvements required to add, to improve and alter water facilities at the Philipsburg State Hospital for the adequate service thereof. Payments on account of such appropriation shall be made only upon receipts of costs certified by the Commonwealth.

Commonwealth of Pennsylvania,
Governor's Office,
Harrisburg, August 22, 1953.

I file herewith, in the Office of the Secretary of the Commonwealth, with my objections, House Bill No. 847, Printer's No. 602, entitled "An act making an appropriation to the Department of Property and Supplies for the payment of the Commonwealth's share in certain

capital improvements to the water facilities of the Philipsburg State Hospital.”

This bill is designed to make possible certain capital improvements to the water facilities at the Philipsburg State Hospital and would appropriate the sum of \$21,000, or as much thereof as may be necessary, to the Department of Property and Supplies for the purpose of making such improvements.

Since no provision was made for this appropriation in the budget and an appropriation of this nature should have been a part of the departmental request at the time of submitting requests for appropriations, it would seem that this bill is not absolutely necessary.

In any event, if urgently needed, there is no reason why these improvements cannot be made from the appropriation already provided for the institution's maintenance.

For these reasons, the bill is not approved.

JOHN S. FINE

No. 6

AN ACT

Making an appropriation to the Department of Forests and Waters for the purpose of maintaining dikes along Darby Creek, in Tincicum and Darby Townships, Delaware County, and in Philadelphia.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The sum of twenty thousand dollars (\$20,000), or as much thereof as may be necessary, is hereby appropriated to the Department of Forests and Waters for the purpose of maintaining dikes along Darby Creek, in Darby and Tincicum Townships, Delaware County, and in Philadelphia County.

Commonwealth of Pennsylvania,
Governor's Office,
Harrisburg, August 22, 1953.

I file herewith, in the Office of the Secretary of the Commonwealth, with my objections, House Bill No. 1099, Printer's No. 613, entitled "An act making an appropriation to the Department of Forests and Waters for the purpose of maintaining dikes along Darby Creek, in Tincicum and Darby Townships, Delaware County, and in Philadelphia."

This bill would make an appropriation in the amount of \$20,000 to the Department of Forests and Waters for the purpose of maintaining dikes along Darby Creek in Tincicum and Darby Townships, Delaware County, and in the City of Philadelphia.

No provision for this expenditure was made in the current budget and it would appear that any urgent work needed upon these dikes can be taken care of from other appropriations to the Department of Forests and Waters.

For these reasons, the bill is not approved.

JOHN S. FINE

AN ACT

Making an appropriation to the Elwyn Training School at Elwyn in the County of Delaware, Commonwealth of Pennsylvania, toward the rebuilding of a large dormitory destroyed by fire and providing for a lien against the property improved thereby.

Whereas, a building known as "The Manse" at the Elwyn Training School at Elwyn, County of Delaware, Commonwealth of Pennsylvania, was destroyed by fire on February twentieth, one thousand nine hundred fifty-two; and

Whereas, The Commonwealth had in residence in said "Manse" eighty-six (86) of the total of one hundred forty-four (144) inmates, all of whom were saved at the time of the fire; and

Whereas, The Commonwealth contributed over sixty percent (60%) of the original cost of the "Manse" when built in one thousand eight hundred ninety; and

Whereas, The cost of replacing the facilities provided by the "Manse," exclusive of contents, is six hundred four thousand dollars (\$604,000); therefore,

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. An appropriation is hereby made to the Elwyn Training School at Elwyn in the County of Delaware, Commonwealth of Pennsylvania, in the sum of three hundred sixty thousand dollars (\$360,000), to assist in the construction of the dormitory building destroyed by fire.

Section 2. The appropriation made hereby shall be a lien on the dormitory building to be constructed, as provided in the act, approved the ninth day of June, one thousand nine hundred eleven (Pamphlet Laws 736), entitled "An act making appropriations to institutions not wholly managed by the Commonwealth of Pennsylvania liens on the premises of such institutions, for the use of the Commonwealth, and providing for the collection thereof," and its amendments, which liens shall be collected as therein provided.

Commonwealth of Pennsylvania,
Governor's Office,
Harrisburg, August 24, 1953.

I file herewith, in the Office of the Secretary of the Commonwealth, with my objections, Senate Bill No. 239, Printer's No. 473, entitled "An act making an appropriation to the Elwyn Training School at Elwyn in the County of Delaware, Commonwealth of Pennsylvania, toward the rebuilding of a large dormitory destroyed by fire and providing for a lien against the property improved thereby."

This bill would make an appropriation to the Elwyn Training School in the amount of \$360,000.00 to assist in the construction of the dormitory building destroyed by fire. While this appropriation appears to be for a worthwhile purpose, no provision was made for it in the budget and no funds are available for that purpose. Further-

more, it is contrary to the general policy of the State to appropriate for capital improvement of State-aided institutions.

For these reasons, the bill is not approved.

JOHN S. FINE

No. 8

AN ACT

Prescribing certain rights of employment and reemployment for members of the General Assembly.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Whenever any person employed within this Commonwealth shall be elected to membership in the General Assembly, his rights of seniority in maintaining or holding his position of employment shall continue during his tenure of office in the General Assembly, whether or not he continued to maintain such position during such tenure of office, and, upon request made to his employer after termination of his tenure of office in the General Assembly, shall not be refused reemployment on the basis of his prior membership in the General Assembly.

Commonwealth of Pennsylvania,
Governor's Office,
Harrisburg, August 24, 1953.

I file herewith, in the Office of the Secretary of the Commonwealth, with my objections, House Bill No. 1120, Printer's No. 614, entitled "An act prescribing certain rights of employment and reemployment for members of the General Assembly."

This bill provides that anyone employed within the Commonwealth of Pennsylvania who is elected to the General Assembly of the Commonwealth shall continue to hold his rights of seniority in maintaining or holding his position of employment regardless of whether he continues in his employment during the period when he is serving in the General Assembly.

The bill is in very general terms and applies to any employer and to any employe. Thus, it may interfere with the terms of union contracts, agreements between employer and employe and disciplinary actions by a union or employer.

Leonard J. Smith in his book "Collective Bargaining" has this to say on page 188:

"The seniority clause is the most complicated and complex clause in the entire agreement. It has many ramifications, each of which is subject to different viewpoints. The difficulty of developing a satisfactory seniority clause is found when the parties have to put into operation the points they had agreed upon. In order to be fair to both the union and the company, each situation frequently requires a separate solution. This is extremely difficult, although not impossible if both parties are willing to cooperate."

A bill so sweeping and general in its terms can only be characterized as an unwarranted and presumptuous interference with the relationship of employer and employe.

For these reasons, the bill is not approved.

JOHN S. FINE

No. 9

AN ACT

To further amend section 20 of the act, approved the twenty-fifth day of May, one thousand nine hundred forty-five (Pamphlet Laws 1050), entitled "An act relating to the collection of taxes levied by counties, county institution districts, cities of the third class, boroughs, towns, townships, certain school districts and vocational school districts; conferring powers and imposing duties on tax collectors, courts and various officers of said political subdivisions; and prescribing penalties," by conferring powers and imposing duties on the State Treasurer regarding the collection and payment of per capita, residence, poll and occupation taxes *owed by State employes.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 20 of the act, approved the twenty-fifth day of May, one thousand nine hundred forty-five (Pamphlet Laws 1050), entitled "An act relating to the collection of taxes levied by counties, county institution districts, cities of the third class, boroughs, towns, townships, certain school districts and vocational school districts; conferring powers and imposing duties on tax collectors, courts and various officers of said political subdivisions; and prescribing penalties," as amended by the act, approved the thirty-first day of May, one thousand nine hundred forty-seven (Pamphlet Laws 372), is hereby further amended to read as follows:

Section 20. Collection of Per Capita, *Residence*, Poll and Occupation Taxes from Employers, etc.—The tax collector shall demand, receive and collect from the *State Treasurer, in the case of State employes, or from all corporations*, political subdivisions, associations, companies, firms or individuals, employing persons owing per capita, *residence*, poll or occupation taxes, or whose wife owes per capita, *residence*, poll or occupation taxes, or having in possession unpaid commissions or earnings belonging to any person or persons owing per capita, *residence*, poll or occupation taxes, or whose wife owes per capita, *residence*, poll or occupation taxes, upon the presentation of a written notice and demand containing the name of the taxable or the husband thereof and the amount of tax due. Upon the presentation of such written notice and demand, it shall be the duty of the *State Treasurer or of any such corporation, political subdivision, association, company, firm or individual* to deduct from the wages, commissions or earnings of such individual employes, then owing or that shall within sixty days thereafter become due, or from any unpaid commissions or earnings of any such taxable in its or his possession, or that shall within sixty days thereafter come into its or his possession, a sum sufficient to pay the respective amount of the per capita, *residence*, poll or occupation taxes, and costs, shown upon the written

* "owned" in original.

notice or demand, and to pay the same to the tax collector of the taxing district in which such delinquent tax was levied within sixty days after such notice shall have been given; *the State Treasurer* or such corporation, political subdivision, association, firm or individual shall be entitled to deduct from the moneys collected from each employe the costs incurred from the extra bookkeeping necessary to record such transactions, not exceeding two per centum of the amount of money so collected and paid over to the tax collector. Upon the failure of *the State Treasurer* or of any such corporation, political subdivision, association, company, firm or individual to deduct the amount of such taxes or to pay the same over to the tax collector, less the cost of bookkeeping involved in such transaction, as herein provided, within the time hereby required, *the State Treasurer* or such corporation, political subdivision, association, company, firm or individual shall forfeit and pay the amount of such tax for each such taxable whose taxes are not withheld and paid over, or that are withheld and not paid over together with a penalty of ten per centum added thereto, to be recovered by an action of assumpsit in a suit to be instituted by the tax collector, or by the proper authorities of the taxing district, as debts of like amount are now by law recoverable, except that such persons shall not have the benefit of any stay of execution or exemption law.

Commonwealth of Pennsylvania,
Governor's Office,
Harrisburg, August 24, 1953

I file herewith, in the Office of the Secretary of the Commonwealth, with my objections, Senate Bill No. 510, Printer's No. 571, entitled "An act to further amend section 20 of the act, approved the twenty-fifth day of May, one thousand nine hundred forty-five (Pamphlet Laws 1050), entitled 'An act relating to the collection of taxes levied by counties, county institution districts, cities of the third class, boroughs, towns, townships, certain school districts and vocational school districts; conferring powers and imposing duties on tax collectors, courts and various officers of said political subdivisions, and prescribing penalties,' by conferring powers and imposing duties on the State Treasurer regarding the collection and payment of per capita, residence, poll and occupation taxes *owed by State employes."

This bill adds residence taxes to poll and occupation taxes that may be collected from employers and also adds the State Treasurer as the person from whom taxes are to be collected in the case of State employes. Under the system set forth in the act the tax collector would present a written notice and demand upon the State Treasurer of the taxes due by the State employe and the State Treasurer would pay the same to the tax collector, and if the State Treasurer failed to pay, the State Treasurer would forfeit and pay the amount of said tax for each such taxable whose taxes are not withheld and paid over, together with a penalty of 10%.

Article III, Section 16, of the Constitution of the Commonwealth of Pennsylvania provides that "no money shall be paid out of the Treasury except upon appropriations made by law and on warrant by the proper officer in pursuance thereof."

* "owned" in original.

The Act of April 9, 1929, P. L. 343, known as "The Fiscal Code," provides in Section 1501, 72 P. S. 1501, that no money shall be paid out of any fund in the State Treasury, with certain exceptions, until a requisition therefor shall have been presented to or prepared by the Auditor General. Section 1502 provides that all requisitions shall be audited by the Department of the Auditor General, and if they appear to be lawful and correct, the Department shall approve them and transmit them to the Treasury Department for examination and approval.

It is further provided that if the Treasury Department shall approve a requisition, it shall note its approval thereon in writing and return the same to the Department of the Auditor General. Thereupon the Auditor General shall draw his warrant upon the State Treasurer for the payment of the amount in which the requisition has been approved.

These provisions of the Fiscal Code have not been amended to provide for the disbursements of these tax monies from the State Treasury, and the statute is therefor unworkable from the standpoint of administration.

The bill attempts to circumvent the provisions of the Constitution and The Fiscal Code. It should also be noted that frequently there are legal questions involved as to whether or not State employes are residents of Harrisburg.

Nevertheless, I do not wish to condone the failure of State employes to pay the taxes which they legally owe to political subdivisions of the Commonwealth. The records will show that early in my administration I directed to every department head, board and commission of the State government under my jurisdiction, a notice to the effect that all State employes should recognize their obligations to pay taxes which they legally owe. If the tax collector of any political subdivision has experienced trouble in collecting taxes from State employes, I suggest that he get in touch with the head of the department with which the State employe is connected, and I feel sure that he will receive the fullest cooperation from such official.

For the reasons which I have set forth, the bill is not approved.

JOHN S. FINE

No. 10
AN ACT

Making an appropriation to the Pennsylvania Historical and Museum Commission for the improvement and development of buildings and grounds at Daniel Boone Homestead, a famous historical shrine of especial interest to youth.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. In order to further enhance the appeal of Daniel Boone Homestead for boys and girls and for the general public by providing better facilities, by providing better means of access, and by further improvements to the buildings, the sum of twenty-five thousand dollars (\$25,000), or so much thereof as may be necessary, is hereby

appropriated to the Pennsylvania Historical and Museum Commission, a property of the Commonwealth, for the construction of driveways, parking areas and paths, for the alteration and repair of the buildings, for the construction of a building for offices, garage, storage, general utility, lavatory and bath house with sewage disposal and water, for the installation of sanitary facilities, for the purchase of furniture and household furnishings for the Homestead, and farming implements, machinery and wagons for the barn, and for use in cultivating the land, and for fencing, grading and planting, and for incidental and contingent expenses on the Homestead property.

Commonwealth of Pennsylvania,
Governor's Office,
Harrisburg, August 24, 1953

I file herewith, in the Office of the Secretary of the Commonwealth, with my objections, House Bill No. 788, Printer's No. 600, entitled "An act making an appropriation to the Pennsylvania Historical and Museum Commission for the improvement and development of buildings and grounds at Daniel Boone Homestead, a famous historical shrine of especial interest to youth."

This bill would make an appropriation in the amount of \$25,000.00 to the Pennsylvania Historical and Museum Commission for the improvement and development of buildings and grounds at the Daniel Boone Homestead.

While I am interested in seeing that the historical shrines of the Commonwealth are adequately preserved and improved, I feel that during the remainder of this biennium this particular shrine can be properly maintained by other funds available to the Pennsylvania Historical and Museum Commission. Furthermore, no provision was made for this appropriation in the budget.

For these reasons, the bill is not approved.

JOHN S. FINE

No. 11

AN ACT

To further amend subsection (b) of section 2402 of the act, approved the ninth day of April, one thousand nine hundred twenty-nine (Pamphlet Laws 177), entitled "An act providing for and reorganizing the conduct of the executive and administrative work of the Commonwealth by the Executive Department thereof and the administrative departments, boards, commissions, and officers thereof, including the boards of trustees of State Normal Schools, or Teachers Colleges; abolishing, creating, reorganizing or authorizing the reorganization of certain administrative departments, boards, and commissions; defining the powers and duties of the Governor and other executive and administrative officers, and of the several administrative departments, boards, commissions, and officers; fixing the salaries of the Governor, Lieutenant Governor, and certain other executive and administrative officers; providing for the appointment of certain administrative officers, and of all deputies and other assistants and employes in certain departments, boards, and commissions; and prescribing the manner in which the number and compensation of the deputies and all other assistants and employes of certain departments, boards and commissions shall be determined," by further regulating working conditions and compensation of Capital Police.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Subsection (b) of section 2402 of the act, approved the ninth day of April, one thousand nine hundred twenty-nine (Pamphlet Laws 177), entitled "An act providing for and reorganizing the conduct of the executive and administrative work of the Commonwealth by the Executive Department thereof and the administrative departments, boards, commissions, and officers thereof, including the boards of trustees of State Normal Schools, or Teachers Colleges; abolishing, creating, reorganizing or authorizing the reorganization of certain administrative departments, boards, and commissions; defining the powers and duties of the Governor and other executive and administrative officers, and of the several administrative departments, boards, commissions, and officers; fixing the salaries of the Governor, Lieutenant Governor, and certain other executive and administrative officers; providing for the appointment of certain administrative officers, and of all deputies and other assistants and employes in certain departments, boards, and commissions; and prescribing the manner in which the number and compensation of the deputies and all other assistants and employes of certain departments, boards and commissions shall be determined," as amended by the act, approved the twenty-third day of May, one thousand nine hundred forty-nine (Pamphlet Laws 1690), is hereby further amended to read as follows:

Section 2402. Grounds, Buildings and Monuments in General.—The Department of Property and Supplies shall have the power, and its duty shall be:

* * * * *

(b) To employ such captains, sergeants of police, and police officers, as may be necessary to preserve good order in the Capitol grounds and buildings, and fix their compensation and their hours of employment, which shall not be spread over more than five days in any one week except in emergency, *nor shall they be required to work on any legal holiday unless they are given a corresponding day of leave during their regular work week*: Provided, however, That the number and compensation of such captains, sergeants and officers shall be subject to the approval of the Governor. Such captains, sergeants and officers shall be known as the Capitol Police.

Commonwealth of Pennsylvania,
Governor's Office,
Harrisburg, August 24, 1953.

I file herewith in the Office of the Secretary of the Commonwealth, with my objections, House Bill No. 1576, Printer's No. 662, entitled "An act to further amend subsection (b) of Section 2402 of the act, approved the ninth day of April, one thousand nine hundred twenty-nine (Pamphlet Laws 177), entitled 'An act providing for and reorganizing the conduct of the executive and administrative work of the Commonwealth by the Executive Department thereof and the administrative departments, boards, commissions, and officers thereof, including the boards of trustees of State Normal Schools, or Teachers Colleges; abolishing, creating, reorganizing or authorizing the reorganization of certain administrative departments, boards, and

commissions; defining the powers and duties of the Governor and other executive and administrative officers, and of the several administrative departments, boards, commissions, and officers; fixing the salaries of the Governor, Lieutenant Governor, and certain other executive and administrative officers; providing for the appointment of certain administrative officers, and of all deputies and other assistants and employes in certain departments, boards, and commissions; and prescribing the manner in which the number and compensation of the deputies and all other assistants and employes of certain departments, boards and commissions shall be determined,' by further regulating working conditions and compensation of Capitol Police."

The amendatory language of this bill provides that the Capitol Police shall not be required to work on any legal holiday unless they are given a corresponding day of leave during their regular work week.

We have no quarrel with the purposes of this bill, but this is not the type of policy which should be made statutory. It is impossible to write into statutory law all matters of policy and administrative action which could, or should, be adopted by the head of any administrative department of State government. The heads of the various departments must have discretionary authority to properly conduct the work of their departments, and a subject such as this should be a matter of administrative action, rather than a statutory provision. Oftentimes a passage of one type of policy is interpreted to mean that the head of a department does not have the right to exercise other types of policy, or policies, in other fields of administrative action. Thus, the enactment of one type of policy denies to the head of the department another type of policy.

For these reasons, the bill is not approved.

JOHN S. FINE

No. 12

AN ACT

To further amend section 2502 of the act, approved the tenth day of March, one thousand nine hundred forty-nine (Pamphlet Laws 30), entitled "An act relating to the public school system, including certain provisions applicable as well to private and parochial schools; amending, revising, consolidating and changing the laws relating thereto," by further providing for reimbursements by the Commonwealth to school districts on account of instruction.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 2502 of the act, approved the tenth day of March, one thousand nine hundred forty-nine (Pamphlet Laws 30), entitled "An act relating to the public school system, including certain provisions applicable as well to private and parochial schools; amending, revising, consolidating and changing the laws relating thereto," as last amended by the act, approved the twenty-seventh day of December, one thousand nine hundred fifty-one (Pamphlet Laws 1783), is hereby further amended to read as follows:

Section 2502. Payments on Account of Instruction.—Every school district and every vocational school district shall be paid by the Com-

monwealth on account of the instruction of all pupils in average daily membership in the district's public schools, joint elementary schools and joint high schools, an amount to be determined by multiplying the number of teaching units, based on the number of all pupils in average daily membership in the district's public schools, joint elementary schools and joint high schools by the district's standard reimbursement fraction; and for the school year 1950-1951 by three thousand eight hundred fifty dollars (\$3850); for the school year 1951-1952 by four thousand dollars (\$4000); for the school year 1952-1953 by four thousand three hundred dollars (\$4300); for the school year 1953-1954 by four thousand five hundred dollars (\$4500); for the school year 1954-1955 by four thousand seven hundred dollars (\$4700); for the school year 1955-1956 by four thousand nine hundred dollars (\$4900); for the school year 1956-1957 by five thousand one hundred dollars (\$5100); for the school year 1957-1958 by five thousand three hundred dollars (\$5300); for the school year 1958-1959 and for each school year thereafter by five thousand five hundred dollars (\$5500): Provided, That the amount of payment to be made by the Commonwealth to any school district during the school year [1951-1952 and 1952-1953 for the school years 1950-1951 and 1951-1952] *1953-1954 and 1954-1955 for the school years 1952-1953 and 1953-1954* on account of the instruction of pupils under the provisions of this section shall not be less than the amount paid to the district during the school year 1949-1950 on account of the instruction of pupils: Provided further, That if the number of teaching units in any school district for the school year [1950-1951 or 1951-1952] *1952-1953 or 1953-1954* is less than the number of teaching units for the school year 1948-1949, the payment by the Commonwealth shall be reduced proportionately.

In addition to the payments hereinbefore specified, the following supplemental payments shall be made to the district of residence on account of pupils enrolled in elementary schools or high schools operated by joint boards of which the district of residence is a member and pupils enrolled in schools operated by union or merged districts:

(1) In the case of joint elementary schools, five hundred dollars (\$500) per teaching unit multiplied by the standard reimbursement fraction of the district of residence.

(2) In the case of joint high schools, five hundred dollars (\$500) per teaching unit multiplied by the standard reimbursement fraction of the district of residence.

(3) In the case of elementary schools operated by union or merged districts, eight hundred dollars (\$800) per teaching unit multiplied by the district's standard reimbursement fraction.

(4) In the case of high schools operated by union or merged districts, eight hundred dollars (\$800) per teaching unit multiplied by the district's standard reimbursement fraction.

In all cases, the supplemental payment specified in the foregoing shall be made only for organizations approved by the Department of Public Instruction.

Notwithstanding the foregoing provisions of this section, when, because of sparsity of population, road or climatic conditions, or lack of other available high school facilities, the State Council of Education

has approved the continued operation of a small high school, the district shall receive an amount based on a number of teaching units equal to the number of teachers approved by the State Council of Education as being required to provide a satisfactory educational program in such school, provided that the number of teachers employed is not less than the number approved.

For no year shall any school district or vocational school district receive less than the minimum subsidy per teaching unit.

Section 2. The provisions of this act shall become effective immediately upon final enactment.

Commonwealth of Pennsylvania,
Governor's Office,
Harrisburg, August 24, 1953.

I file herewith, in the Office of the Secretary of the Commonwealth, with my objections, Senate Bill No. 776, Printer's No. 406, entitled "An act to further amend section 2502 of the act, approved the tenth day of March, one thousand nine hundred forty-nine (Pamphlet Laws 30), entitled 'An act relating to the public school system, including certain provisions applicable as well to private and parochial schools; amending, revising, consolidating and changing the laws relating thereto,' by further providing for reimbursements by the Commonwealth to school districts on account of instruction."

The Department of Public Instruction does not favor the provisions of this bill inasmuch as it will increase the subsidy payments for this biennium by approximately \$278,000.00 with no provision made in the Budget for this expenditure.

For these reasons, the bill is not approved.

JOHN S. FINE

No. 13
AN ACT

To further amend section 2511.1 of the act, approved the tenth day of March, one thousand nine hundred forty-nine (Pamphlet Laws 30), entitled "An act relating to the public school system, including certain provisions applicable as well to private and parochial schools; amending, revising, consolidating and changing the laws relating thereto," by providing for State payments to approved sublessees.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Subsections (a) and (b) of section 2511.1 of the act, approved the tenth day of March, one thousand nine hundred forty-nine (Pamphlet Laws 30), entitled "An act relating to the public school system, including certain provisions applicable as well to private and parochial schools; amending, revising, consolidating and changing the laws relating thereto," as last amended by the act, approved the twenty-first day of January, one thousand nine hundred fifty-two (Pamphlet Laws 2195), is hereby further amended to read as follows:

Section 2511.1. Payments on Account of Obligations to State Public School Building Authority and on Account of Rentals Payable to

Municipality Authorities and Non-profit Corporations.—(a) The Commonwealth shall pay annually to each school district erecting or sharing in the erection of a building or buildings or providing educational equipment under the provisions of the State Public School Building Authority Act *and to each school district that has become a sublessee of any such building, buildings or equipment under a sublease approved by the Superintendent of Public Instruction* an amount to be determined (1) by multiplying the school district's standard reimbursement fraction by fifty one-hundredths (50-100) and by the annual rental charge as fixed by the State Public School Building Authority, or (2) if the district's standard reimbursement fraction is greater than five thousand nine hundred ninety-nine ten-thousandths (.5999), by multiplying the standard reimbursement fraction by itself and by the annual rental charge fixed by the State Public School Building Authority.

(b) The Commonwealth shall also pay, commencing with the school year one thousand nine hundred fifty-one—one thousand nine hundred fifty-two (1951-1952) and annually in each school year thereafter, to each school district which shall have entered into an approved lease with a municipality authority or with a non-profit corporation for the rental of a school building or buildings or providing education equipment *and to each school district that has become a sublessee of any such building, buildings or equipment under a sublease approved by the Superintendent of Public Instruction*, an amount to be determined (1) by multiplying the school district's standard reimbursement fraction by fifty one-hundredths (50-100) and by the rental or share thereof paid by the school district during the prior school year under its [leave] *lease* with such municipality authority or non-profit corporation, or (2) if the district's standard reimbursement fraction is greater than five thousand nine hundred ninety-nine ten-thousandths (.5999), by multiplying the standard reimbursement fraction by itself and by the annual rental or share thereof paid by the school district during the prior school year under its lease with such municipality authority or non-profit corporation. No payment shall be made to any school district on account of any lease entered into with any municipality authority or non-profit corporation unless such lease is approved by the Department of Public Instruction. The Department of Public Instruction shall give its approval if it shall find that the leased project is in conformance with general county and State plans for an orderly development of improved attendance areas and administrative units and for the improved housing of public schools in the Commonwealth, that the school building will conform with standards and regulations prescribed by the department with respect to educational design, location, usefulness for community activities, safety, comfort and convenience, and that the school district or school districts to which the project is to be leased will have the ability to meet from current revenues the rental or their respective shares of rental to be paid to the municipality authority or non-profit corporation under the proposed lease and to defray the cost of their respective shares of the cost of operation and maintenance of the project.

Section 2. The provisions of this act shall become effective immediately upon final enactment.

Commonwealth of Pennsylvania,
Governor's Office,
Harrisburg, August 26, 1953.

I file herewith, in the Office of the Secretary of the Commonwealth, with my objections, House Bill No. 672, Printer's No. 313, entitled "An act to further amend section 2511.1 of the act, approved the tenth day of March, one thousand nine hundred forty-nine (Pamphlet Laws 30), entitled 'An act relating to the public school system, including certain provisions applicable as well to private and parochial schools; amending, revising, consolidating and changing the laws relating thereto,' by providing for State payments to approved sublessees."

This bill proposes to amend Section 2511.1 of the Public School Code of 1949, as amended, to allow reimbursements for the sublessee of school property under a lease with the State Public School Building Authority.

It is virtually impossible under the existing law to have a sublessee of school property which would be entitled to a reimbursement. In order to carry out the effect and intent of this bill further amendments are needed.

The proposal of this bill to become a law would serve no useful purpose at the present time. Further this bill might adversely affect the bond market on original projects leased to a lessee. The provisions of this bill together with the necessary other amendments to the Public School Code of 1949 could be submitted in one package at a subsequent Session of the Legislature.

This bill might theoretically allow the Superintendent of Public Instruction to approve a sublease where the matter has been previously disapproved as an original lease.

For these reasons, the bill is not approved.

JOHN S. FINE

No. 14

AN ACT

To further amend section 1 of the act, approved the seventeenth day of May, one thousand nine hundred twenty-nine (Pamphlet Laws 1798), entitled "An act providing a fixed charge, payable by the Commonwealth, on lands acquired by the State and the Federal Government for forest reserves, or for the purpose of preserving and perpetuating a portion of the original forests of Pennsylvania, and preserving and maintaining the same as public places and parks; and the distribution of the same for county, school, township, and road purposes in the counties, school districts, and townships where such forests are located; and making an appropriation," by increasing the amounts of payments from the Commonwealth to counties.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 1 of the act, approved the seventeenth day of May, one thousand nine hundred twenty-nine (Pamphlet Laws 1798),

entitled "An act providing a fixed charge, payable by the Commonwealth, on lands acquired by the State and Federal Government for forest reserves, or for the purpose of preserving and perpetuating a portion of the original forests of Pennsylvania, and preserving and maintaining the same as public places and parks; and the distribution of the same for county, school, township, and road purposes in the counties, school districts, and townships where such forests are located; and making an appropriation," as amended by the act, approved the twenty-seventh day of May, one thousand nine hundred forty-nine (Pamphlet Laws 1900), is hereby further amended to read as follows:

Section 1. Be it enacted, &c., That from and after the passage of this act, all lands heretofore or hereafter acquired by the Commonwealth, or by the Government of the United States, for forest reserves or for the purpose of preserving and perpetuating any portion of the original forests of Pennsylvania and preserving and maintaining the same as public places and parks, and which, by existing laws, are now exempt from taxation, and all lands and property heretofore or hereafter acquired for the purpose of conservation of water, or to prevent flood conditions, upon which a tax is imposed by existing laws payable by the Commonwealth, shall hereafter be subject to an annual charge of [two and one-half] *six* cents per acre, for the benefit of the county in which said lands are located, two and one-half cents per acre for the benefit of the schools in the respective school districts in which such lands are located, and two and one-half cents per acre for the benefit of the roads in the township where such lands are located, which charge shall be payable by the Commonwealth. The annual charge payable by the Commonwealth on land acquired by the Government of the United States for forest reserves is to continue only until the receipts of money by treasurers and road supervisors of the said counties and school districts and townships in which national forest reserves are located, provided for in act of April twenty-seventh, one thousand nine hundred twenty-five, Pamphlet Laws, three hundred twenty-four, shall equal or exceed the amount paid by the Commonwealth in lieu of taxes.

Commonwealth of Pennsylvania,
Governor's Office,
Harrisburg, August 26, 1953.

I file herewith, in the Office of the Secretary of the Commonwealth, with my objections, Senate Bill No. 352, Printer's No. 204, entitled "An act to further amend section 1 of the act, approved the seventeenth day of May, one thousand nine hundred twenty-nine (Pamphlet Laws 1798), entitled 'An act providing a fixed charge, payable by the Commonwealth, on lands acquired by the State and the Federal Government for forest reserves, or for the purpose of preserving and perpetuating a portion of the original forests of Pennsylvania, and preserving and maintaining the same as public places and parks; and the distribution of the same for county, school, township, and road purposes in the counties, school districts, and townships where such forests are located; and making an appropriation,' by increasing the amounts of payments from the Commonwealth to counties."

The act which this bill purposes to amend was approved May 17, 1929, P. L. 1798, and took cognizance of the fact that large areas have been taken over by the Commonwealth for forest lands, game lands, fish and recreation areas and flood control projects. This land is not subject to local taxation and, therefore, State ownership in many districts creates a hardship on counties, townships and school districts.

The Legislature, realizing this, provided in 1929 that such lands, and also land acquired by the government of the United States for forest reserves, should be subject to an annual charge of 1¢ per acre for the benefit of the county in which the lands are located, 2¢ per acre for the benefit of the schools in the respective school districts and 2¢ per acre for the benefit of the roads in the respective townships wherein the lands are located, and shall be payable by the Commonwealth. These payments, of course, were in lieu of taxes. In 1949, the Act of 1929, supra, was amended to increase and equalize the payment to all three taxing units of 2½¢ per acre.

This bill proposes to increase the annual charge of 2½¢ per acre, for the benefit of the county in which the lands are located, to 6¢ per acre, which is over double the amount that the county is receiving under present law, and 6 times the amount provided by the Act of 1929, supra. It does not change the 2½¢ per acre payable to townships and school districts.

The major part of this land has been taken from the several boards of county commissioners after the land has been bid in by them on tax sales. The land is mostly mountainous, hilly and of a rugged terrain containing second growth timber and the cost was very meager to the Commonwealth.

I have information from the Tax Equalization Board that in a township of one of the counties, the county tax is 5.4¢ per acre as compared to the 6¢ per acre proposed in this bill; the township tax is 1.8¢ per acre as compared to the 2½¢ per acre they receive on State lands, but that the school tax is 12¢ per acre as compared to the 2½¢ per acre allotted under existing law. Thus it can be readily seen that there are inequalities existing which should be the subject of further study and consideration.

Furthermore, it should be noted that in 1929 the school districts and townships were allowed twice as much as the counties while this bill proposes to allow the counties over twice as much as the school districts and townships. Although the cost of all government has advanced materially since 1929, we should not overlook that fact that since then the Commonwealth has taken over the cost of some of the most expensive functions of the counties; mental health and public assistance being two examples.

A fair and equitable payment to all local subdivisions should be made for this land by the Commonwealth, taking into consideration all that has been said above as well as many other elements. It is a question that should be thoroughly studied before the correct amount can be determined.

For these reasons, the bill is not approved.

JOHN S. FINE

AN ACT

To amend the act, approved the twenty-ninth day of May, one thousand nine hundred forty-five (Pamphlet Laws 1108), entitled "An act authorizing the establishment, construction and maintenance of limited access highways and local service highways; and providing for closing certain highways; providing for the taking of private property and for the payment of damages therefor; providing for sharing the costs involved and for the control of traffic thereover; providing penalties, and making an appropriation," by requiring the General Assembly to approve the designation of certain limited access highways.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Subsection (a) of section two, of the act, approved the twenty-ninth day of May, one thousand nine hundred forty-five (Pamphlet Laws 1108), entitled "An act authorizing the establishment, construction and maintenance of limited access highways and local service highways; and providing for closing certain highways; providing for the taking of private property and for the payment of damages therefor; providing for sharing the costs involved and for the control of traffic thereover; providing penalties, and making an appropriation," is hereby amended to read as follows:

Section 2. (a) The Secretary of Highways, with the approval of the Governor, is hereby authorized to declare any State highway route, or part thereof, not exceeding five miles in length, now or hereafter established, to be a limited access highway. *The Secretary of Highways, with the approval of the Governor and the General Assembly, is hereby authorized to declare any State highway route, or part thereof, of any length exceeding five (5) miles, now or hereafter established, to be a limited access highway.*

Section 2. The provisions of this act shall become effective immediately upon final enactment.

Commonwealth of Pennsylvania,
Governor's Office,
Harrisburg, August 26, 1953.

I file herewith, in the Office of the Secretary of the Commonwealth, with my objections, House Bill No. 1143, Printer's No. 584, entitled "An act to amend the act, approved the twenty-ninth day of May, one thousand nine hundred forty-five (Pamphlet Laws 1108), entitled 'An act authorizing the establishment, construction and maintenance of limited access highways; and local service highways and providing for closing certain highways; providing for the taking of private property and for the payment of damages therefor; providing for sharing the costs involved and for the control of traffic thereover; providing penalties, and making an appropriation,' by requiring the General Assembly to approve the designation of certain limited access highways."

This bill would amend Section 2 of the Act of May 29, 1945, P. L. 1108, to provide that before the Secretary of Highways would be authorized to establish or declare any State highway over five miles in

length to be a limited access highway, in addition to the approval of the Governor, the approval of the General Assembly would have to be secured.

The requirement for securing approval of the General Assembly in such instances would appear to be an encroachment of the legislative upon the executive branch of the State government, and the mechanics and the possible delay involved in securing the approval of the General Assembly might prove to be impedimentary in so far as the orderly development of the State highway system is concerned. Traffic congestion on many of our State highways makes it imperative that prompt steps be taken to correct conditions. No sound reason has been presented to us which indicates the necessity for this change in the law.

For these reasons, the bill is not approved.

JOHN S. FINE

No. 16

AN ACT

To further amend subsection (a) of section 921 of the act, approved the tenth day of March, one thousand nine hundred forty-nine (Pamphlet Laws 30), entitled "An act relating to the public school system, including certain provisions applicable as well to private and parochial schools; amending, revising, consolidating and changing the laws relating thereto," by providing for increasing the membership of county boards of school directors.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Subsection (a) of section 921 of the act, approved the tenth day of March, one thousand nine hundred forty-nine (Pamphlet Laws 30), entitled "An act relating to the public school system, including certain provisions applicable as well to private and parochial schools; amending, revising, consolidating and changing the laws relating thereto," as amended by the act, approved the twenty-eighth day of September, one thousand nine hundred fifty-one (Pamphlet Laws 1551), is hereby further amended to read as follows:

Section 921. Election; Vacancies; Qualifications; Removals.—(a) In every county having a county superintendent of public schools, there shall be a county board of school directors consisting of five (5) or seven (7) members, as determined by the annual convention of the school directors of the county, and who shall be elected at the annual convention of the school directors of the county next preceding the expiration of their respective terms of office, by majority vote of the school directors of the districts under the supervision of the county superintendent, attending such annual convention. They shall serve for terms of six years from the first day of July following their election, or until their successors are chosen. The terms of the members shall be staggered so that *if there are five (5) members*, two members shall be elected in the year one thousand nine hundred fifty-two, two in the year one thousand nine hundred fifty-four, and one in the year one thousand nine hundred fifty-six; and thereafter, two members or one member, as is required to fill the expiring terms. *If there are*

seven (7) members, they shall be elected in groups of three (3), two (2) and two (2). All vacancies occurring by reason of death, resignation, removal from the county, or otherwise, shall be filled by a majority vote of the remaining members of the county board of school directors. The person elected to fill such vacancy shall hold his office until the next annual convention, at which a successor shall be elected for the remainder of the unexpired term.

Commonwealth of Pennsylvania,
Governor's Office,
Harrisburg, August 26, 1953.

I file herewith, in the Office of the Secretary of the Commonwealth, with my objections, House Bill No. 1159, Printer's No. 745, entitled "An act to further amend subsection (a) of section 921 of the act, approved the tenth day of March, one thousand nine hundred forty-nine (Pamphlet Laws 30), entitled 'An act relating to the public school system, including certain provisions applicable as well to private and parochial schools; amending, revising, consolidating and changing the laws relating thereto,' by providing for increasing the membership of county boards of school directors."

We see no reason for increasing the membership of a county board of school directors from five to seven members at a potential cost of \$15,000.00 biennially to the Commonwealth, for which expenditure there would be no adequate return.

For these reasons, the bill is not approved.

JOHN S. FINE

No. 17

AN ACT

To further amend section 33 of the act, approved the thirty-first day of May, one thousand nine hundred eleven (Pamphlet Laws 468), entitled "An act providing for the establishment of a State Highway Department, by the appointment of a State Highway Commissioner, two Deputy State Highway Commissioners, chief engineer, chief draughtsman, superintendents of highways, and a staff of assistants and employes; defining their duties and the jurisdiction of the State Highway Department, and fixing salaries of commissioner and deputies and other appointees; providing for taking over from the counties or townships of the Commonwealth certain existing public roads connecting county-seats, principal cities, and towns and extending to the State line; describing and defining same by route numbers as the State Highways of the Commonwealth; providing for the improvement, maintenance and repair of said State Highways solely at the expense of the Commonwealth, and relieving the several townships or counties from any further obligation and expense to improve or maintain the same, and relieving said townships or counties of authority over same; requiring boroughs and incorporated towns to maintain certain State Highways wholly and in part; requiring the State Highway Commissioner to make maps to be complete records thereof; conferring authority on the State Highway Commissioner; providing for the payment of damages in taking of property, or otherwise, in the improvement thereof; providing for purchase or acquiring of turnpikes or toll-roads forming all or part of any State Highway, and procedure therein; providing for work of improvement of State Highways to be done by contract, except where the State Highway Commissioner decides the work be done by the State; providing aid by the State to counties and townships desiring the same in the improvement of township or county roads; defining highways and State-aid highways; providing method of application for

State aid in the improvement, maintenance and repair of township or county roads and prescribing the contents of township, county, borough, or incorporated town petitions; providing for percentage of cost of improvement or repairs to be paid by State, county, township, borough, or incorporated town, and requiring contracts by counties, townships, boroughs, and incorporated towns with Commonwealth governing same; providing for the minimum width of State Highways and State-aid highways, and kind of materials to be used in the improvement; providing for payment of cost of improvement and repairs; providing penalty for injuring or destroying State Highways; making appropriations to carry out the provisions of the act; and providing for the repeal of certain acts relating to Highway Department and improvement of roads, and of all acts or parts of acts inconsistent herewith; and providing that existing contracts are not affected by provisions of this act," by permitting the Secretary to withhold ten per centum of the current estimate due the contractor pending completion of fifty per centum *of the work and thereafter withholding five per centum of the current estimate due the contractor pending completion of ninety-five per centum of the work to be done.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 33 of the act, approved the thirty-first day of May, one thousand nine hundred eleven (Pamphlet Laws 468), entitled "An act providing for the establishment of a State Highway Department, by the appointment of a State Highway Commissioner, two Deputy State Highway Commissioners, chief engineer, chief draughtsman, superintendents of highways, and a staff of assistants and employes; defining their duties and the jurisdiction of the State Highway Department, and fixing salaries of commissioner and deputies and other appointees; providing for taking over from the counties or townships of the Commonwealth certain existing public roads connecting county-seats, principal cities, and towns and extending to the State line; describing and defining same by route numbers as the State Highways of the Commonwealth; providing for the improvement, maintenance and repair of said State Highways solely at the expense of the Commonwealth, and relieving the several townships or counties from any further obligation and expense to improve or maintain the same, and relieving said townships or counties of authority over same; requiring boroughs and incorporated towns to maintain certain State Highways wholly and in part; requiring the State Highway Commissioner to make maps to be complete records thereof; conferring authority on the State Highway Commissioner; providing for the payment of damages in taking of property, or otherwise, in the improvement thereof; providing for purchase or acquiring of turnpikes or toll-roads forming all or part of any State Highway, and procedure therein; providing for work of improvement of State Highways to be done by contract, except where the State Highway Commissioner decides the work be done by the State; providing aid by the State to counties and townships desiring the same in the improvement of township or county roads; defining highways and State-aid highways; providing method of application for State aid in the improvement, maintenance and repair of township or county roads and prescribing the contents of township, county, borough, or incorporated town petitions; providing for percentage of cost of improvement or repairs to be paid by State, county, township, borough, or incorporated town, and requiring contracts by counties, townships, boroughs, and incorporated

* "of the work and thereafter withholding five per centum" omitted in original.

towns with Commonwealth governing same; providing for the minimum width of State Highways and State-aid highways, and kind of materials to be used in the improvement; providing for payment of cost of improvement and repairs; providing penalty for injuring or destroying State Highways; making appropriations to carry out the provisions of the act; and providing for the repeal of certain acts relating to Highway Department and improvement of roads, and of all acts or parts of acts inconsistent herewith; and providing that existing contracts are not affected by provisions of this act," as last amended by the act, approved the twenty-sixth day of June, one thousand nine hundred thirty-one (Pamphlet Laws 1388), is hereby further amended to read as follows:

Section 33. (a) The total cost of the improvement and maintenance of the State-aid highways constructed under the provisions of this act, as provided by the terms of the contract, or otherwise as herein provided, when properly certified by the Secretary of Highways, shall be audited by the Auditor General, and when audited and allowed shall be paid out of moneys specifically appropriated for this purpose, by warrants drawn therefor by the Auditor General upon the State Treasurer.

(b) The share of the county shall be paid as provided by its contract, and, otherwise, by the provisions of this act, to the State Treasurer by the county treasurer, upon the warrant of the county commissioners, in such sum or sums as shall be certified by the Secretary of Highways, from time to time, during the performance of the work or contract, or as provided by the contract, and, otherwise, by the provisions hereof, after the same shall be completed.

(c) The share of the township or townships, or of any borough or boroughs, or of any incorporated town or towns, shall be paid to the State Treasurer by the township supervisors or commissioners, or by the borough treasurer, or by the town treasurer, as the case may be, in the manner and form as in the case of counties, and as other debts of said townships or boroughs are paid, when and as demanded by certificate of the Secretary of Highways during the performance of the work or contract, or, in like manner, after the same shall be completed.

(d) Upon the completion of any State-aid highway improvement, or upon the ascertainment of any additional improvement cost, or of any maintenance expense, incurred thereon thereafter by the Department of Highways, the Secretary of Highways shall certify the same to the State Treasurer, and to the county commissioners and township supervisors, or borough or town authorities, as the case may be, the respective shares of said cost or expense for which the county, township, borough, or incorporated town is liable. If the said shares are amounts, so certified by the Secretary of Highways, of the cost and expense of the improvement, or of the subsequent maintenance thereof, as provided by contract and the provisions of this act, of the county, township, borough, or incorporated town, or all or either of them, shall not be paid to the State Treasurer within thirty days after being certified, then the said shares of the county, township, borough, or incorporated town, either or all of them, remaining unpaid, shall be charged by the State Treasurer against any funds of said county, township, borough, or incorporated town which may be in the hands

of the State Treasurer, or which may thereafter come into his hands, excepting school funds, and may also be recovered by action at law or equity as any other debts of such counties, townships, boroughs, or incorporated towns are by law recoverable.

(e) The amounts paid under this act to the State Treasurer by the counties, townships, boroughs, and towns shall be placed by him to the credit of the proper fund for highway construction or maintenance, and shall immediately be available for the use of the Department of Highways for construction or maintenance, as the case may be; and the Secretary of Highways is hereby authorized and empowered to apportion the said amounts, thus paid into the State Treasury by the counties, townships, boroughs, and incorporated towns, among the several counties as hereinbefore provided for.

(f) The Secretary of Highways may make partial payments to any contractor performing any highway improvement, under this act, as the same progresses, upon estimate made by the Department of Highways [; but not more than ninety (90) per centum of the estimate of the work done, or of the contract price, shall be paid in advance of the full and satisfactory completion of said improvement and acceptance of same by the Secretary of Highways: Provided, That the Secretary of Highways may, in his discretion, make payments in excess of ninety (90) per centum of the work done, or of the contract price, when at least ninety-five (95) per centum of the work under the contract has been completed]. *Ten per centum (10%) of the current estimate shall be withheld from the contractor pending completion of fifty per centum (50%) of the work. Thereafter, five per centum (5%) of the current estimate shall be withheld from the contractor pending completion of ninety-five per centum (95%) of the total work to be done, at which time the Department may pay the semi-final estimate while preparing the final estimate. All payments herein provided for shall be subject to acceptance of the work done by the Secretary.* The amount retained under said contract for the work done and performed shall in all cases be sufficient to cover double the contract price or estimated cost of the work remaining to be done to satisfactorily complete the contract. [And provided further, That the]

(g) The Secretary of Highways may, in addition to the payments herein authorized, also pay seventy-five (75) per centum of the bid price of fabricated steel, necessary in the construction of bridges, after the same has been delivered on the site of the work, and inspected and approved by a duly authorized representative of the Department of Highways, but, whenever any such payment is made, the Commonwealth shall take, as security for the placing of the steel in the structure proper, documents transferring to it the absolute legal title thereto.

Commonwealth of Pennsylvania,
Governor's Office,
Harrisburg, August 26, 1953.

I file herewith, in the Office of the Secretary of the Commonwealth, with my objections, House Bill No. 1435, Printer's No. 561, entitled "An act to further amend section 33 of the act, approved the thirty-first day of May, one thousand nine hundred eleven (Pamphlet Laws

468), entitled 'An act providing for the establishment of a State Highway Department, by the appointment of a State Highway Commissioner, two Deputy State Highway Commissioners, chief engineer, chief draughtsman, superintendents of highways, and a staff of assistants and employes; defining their duties and the jurisdiction of the State Highway Department, and fixing salaries of commissioner and deputies and other appointees; providing for taking over from the counties or townships of the Commonwealth certain existing public roads connecting county-seats, principal cities, and towns and extending to the State line; describing and defining same by route numbers as the State highways of the Commonwealth; providing for the improvement, maintenance and repair of said State Highways solely at the expense of the Commonwealth, and relieving the several townships or counties from any further obligation and expense to improve or maintain the same, and relieving said townships or counties of authority over same; requiring boroughs and incorporated towns to maintain certain State Highways wholly and in part; requiring the State Highway Commissioner to make maps to be complete records thereof; conferring authority on the State Highway Commissioner; providing for the payment of damages in taking of property, or otherwise, in the improvement thereof; providing for purchase or acquiring of turnpikes or toll-roads forming all or part of any State Highway, and procedure therein; providing for work of improvement of State Highways to be done by contract, except where the State Highway Commissioner decides the work be done by the State; providing aid by the State to counties and townships desiring the same in the improvement of township or county roads; defining highways and State-aid highways; providing method of application for State aid in the improvement, maintenance and repair of township or county roads and prescribing the contents of township, county, borough, or incorporated town petitions; providing for percentage of cost of improvement or repairs to be paid by State, county, township, borough, or incorporated town, and requiring contracts by counties, townships, boroughs, and incorporated towns with Commonwealth governing same; providing for the minimum width of State Highways and State-aid highways, and kind of materials to be used in the improvement; providing for payment of cost of improvement and repairs; providing penalty for injuring or destroying State Highways; making appropriations to carry out the provisions of the act; and providing for the repeal of certain acts relating to Highway Department and improvement of roads, and of all acts or parts of acts inconsistent herewith; and providing that existing contracts are not affected by provisions of this act,' by permitting the Secretary to withhold ten per centum of the current estimate due the contractor pending completion of fifty per centum of the current estimate due the contractor pending completion of ninety-five per centum of the work to be done.'

Under the terms of the bill, which would further amend Section 33 of the so-called Sproul Highway Act of 1911, the Secretary of Highways is directed to withhold 10 per centum of current estimates on State highway construction contracts pending completion of 50 per centum of the work, after which 5 per centum of current estimate shall be withheld pending completion of 95 per centum of the work

after which what is called the "semi-final estimate" can be paid "while preparing the final estimate."

The aforesaid section of the act now provides for withholding "not more than ninety (90) per centum of the estimate of the work done or of the contract price" until 95 per centum of the work is completed, and the meat of the proposed amendment is the new language directing the withholding of only 5 per centum of current estimates after 50 per centum of the work is completed until 95 per centum of the work is completed when what is termed "the semi-final estimate" may be paid while preparing the final estimate. Although we think it would be better to retain the present language of the act concerning payments permitted when 95 per centum of the work is completed, because the act nowhere defines "semi-final estimate," the bill presents a more serious defect in the title which expresses the bill to be "An act to further amend * * * by permitting the Secretary to withhold ten per centum of the current estimate due the contractor pending completion of fifty per centum of the current estimate due the contractor pending completion of ninety-five per centum of the work done." This language describes what the section sought to be amended now provides as the Secretary of Highways could always pay up to 90 per centum of current estimates, and nothing is said in the title about the principal change which the bill seeks to make and which would provide that only 5 per centum, instead of 10 per centum, of current estimates shall be withheld after 50 per centum of the work is completed until 95 per centum of the work is completed. Failure of the title to direct attention to this important change is a clear violation of Article III, Section 3, of the Constitution of Pennsylvania. The title of the bill not only is silent on its main object, but is misleading. Were this not so, the bill would receive our unqualified approval.

For this reason, the bill is not approved.

JOHN S. FINE

No. 18

AN ACT

To amend section 404 of the act, approved the first day of June, one thousand nine hundred forty-five (Pamphlet Laws 1242), entitled "An act relating to roads, streets, highways and bridges; amending, revising, consolidating and changing the laws administered by the Secretary of Highways and by the Department of Highways relating thereto," by requiring that the contractor's performance bond furnished to the department cover also equipment rental.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 404 of the act, approved the first day of June, one thousand nine hundred forty-five (Pamphlet Laws 1242), entitled "An act relating to roads, streets, highways and bridges; amending, revising, consolidating and changing the laws administered by the Secretary of Highways and by the Department of Highways relating thereto," is hereby amended to read as follows:

Section 404. Awarding Contracts; Bonds.—In awarding any contract, the work shall be given to the lowest responsible bidder, with the

option on the part of the secretary to reject any or all bids, if the prices named for the work or materials to be used are higher than the estimated cost, or for any other reason appearing to the secretary. Every person, before being awarded any contract for the construction or improvement of any State highway, under the provisions of this act, shall furnish a bond with sufficient surety or sureties, in a sum equal to fifty per centum of the contract price of the work, conditioned that the contractor shall, well and truly and in a manner satisfactory to the secretary, complete the work contracted for, and shall save harmless the Commonwealth of Pennsylvania from any expense incurred through the failure of said contractor to complete the work as specified, or from any damages growing out of the carelessness of said contractor or his or its servants. Where the amount of such contract is in excess of five hundred dollars (\$500), it shall be the duty of the department to require every person, co-partnership, association, or corporation entering into such contract, before commencing work thereunder, to execute and deliver, to the Commonwealth of Pennsylvania, an additional bond, for the use of all persons interested, in a sum equal to fifty per centum of the contract price of the work, which bond shall be conditioned for the prompt payment of all material furnished and labor supplied or performed, *rental of equipment used* and services rendered by public utilities in, or in connection with, the prosecution of the work, whether or not such material, *equipment rental* or labor entered into and became component parts of the work or improvement contemplated. Such additional bond shall be deposited with and held by the department for the use of any party interested therein. Every such additional bond shall provide that every person, who, whether as subcontractor or otherwise, has furnished material *or equipment on rental* or supplied or performed labor or services on, or in connection with, the prosecution of the work, and who has not been paid therefor, may sue in assumpsit on such additional bond, in the name of the Commonwealth, for his use and prosecute the same to final judgment for such sum or sums as may be justly due him, and have execution thereon. The Commonwealth shall not be liable for the payment of any costs or expense of any such suit. Each of such surety bonds shall have as surety thereon one or more surety companies legally authorized to transact business in this Commonwealth and satisfactory to the secretary.

Commonwealth of Pennsylvania,
Governor's Office,
Harrisburg, August 26, 1953.

I file herewith, in the Office of the Secretary of the Commonwealth, with my objections, House Bill No. 1462, Printer's No. 543, entitled "An act to amend section 404 of the act, approved the first day of June, one thousand nine hundred forty-five (Pamphlet Laws 1242), entitled 'An act relating to roads, streets, highways and bridges; amending, revising, consolidating and changing the laws administered by the Secretary of Highways and by the Department of Highways relating thereto,' by requiring that the contractor's performance bond furnished to the department cover also equipment rental."

This bill would amend Section 404 of the Act of June 1, 1945, P. L. 1242 (State Highway Law), to require that the performance bond (as expressed in title) or the additional bond for labor and material (as expressed in the body of the act), furnished by the successful bidder on contracts for the construction of State highways, shall be conditioned, inter alia, for the payment of equipment rentals for equipment used in the performance of the work. Thus, it will be seen that the title of the bill erroneously states what the amendment seeks to accomplish. The title speaks of one bond furnished by the successful bidder and the body of the act speaks of the other.

I would ordinarily be reluctant to withhold my approval to a bill of this nature, but the defective title makes it questionable whether the bill accomplishes the results sought. The efficacy of either bond should not be jeopardized by a defect in the title which is misleading and so patently violates Article III, Section 3, of the Constitution of Pennsylvania.

For this reason, the bill is not approved.

JOHN S. FINE

No. 19

AN ACT

To amend subsections A and D of section 10 of the act, approved the second day of May, one thousand nine hundred forty-five (Pamphlet Laws 382), entitled "An act providing for the incorporation as bodies corporate and politic of 'Authorities' for municipalities, counties and townships; prescribing the rights, powers and duties of such Authorities heretofore or hereafter incorporated; authorizing such Authorities to acquire, construct, improve, maintain and operate projects, and to borrow money and issue bonds therefor; providing for the payment of such bonds, and prescribing the rights of the holders thereof; conferring the right of eminent domain on such Authorities; authorizing such Authorities to enter into contracts with and to accept grants from the Federal Government or any agency thereof; and conferring exclusive jurisdiction on certain courts over rates," by authorizing Authorities to reject any or all bids on contracts, validating the actions of Authorities and contracts heretofore awarded after the rejection of all the first set of bids, and clarifying the effect of certain contracts heretofore or hereafter made by an Authority in violation of certain provisions of the act.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Subsections A and D of section 10 of the act, approved the second day of May, one thousand nine hundred forty-five (Pamphlet Laws 382), entitled "An act providing for the incorporation as bodies corporate and politic of 'Authorities' for municipalities, counties and townships; prescribing the rights, powers and duties of such Authorities heretofore or hereafter incorporated; authorizing such Authorities to acquire, construct, improve, maintain and operate projects, and to borrow money and issue bonds therefor; providing for the payment of such bonds, and prescribing the rights of the holders thereof; conferring the right of eminent domain on such Authorities; authorizing such Authorities to enter into contracts with and to accept grants from the Federal Government or any agency thereof; and conferring exclusive jurisdiction on certain courts over rates," are hereby amended to read as follows:

Section 10. Competition in Award of Contracts.—A. All construction, reconstruction, repairs or work of any nature made by any Authority, where the entire cost, value or amount of such construction, reconstruction, repairs or work, including labor and materials, shall exceed five hundred dollars (\$500.00), except construction, reconstruction, repairs or work done by employes of said Authority, or by labor supplied under agreement with any Federal or State agency, with supplies and materials purchased as hereinafter provided, shall be done only under contract or contracts to be entered into by the Authority with the lowest responsible bidder upon proper terms, after due public notice has been given asking for competitive bids as hereinafter provided. *The Authority shall have the right to reject any or all bids.* No contract shall be entered into for construction or improvement or repair of any project or portion thereof, unless the contractor shall give an undertaking with a sufficient surety or sureties approved by the Authority, and in an amount fixed by the Authority, for the faithful performance of the contract. All such contracts shall provide among other things that the person or corporation entering into such contract with the Authority will pay for all materials furnished and services rendered for the performance of the contract, and that any person or corporation furnishing such materials or rendering such services may maintain an action to recover for the same against the obligor in the undertaking, as though such person or corporation was named therein, provided the action is brought within one year after the time the cause of action accrued. Nothing in this section shall be construed to limit the power of the Authority to construct, repair or improve any project or portion thereof, or any addition, betterment or extension thereto, directly by the officers, agents and employes of the Authority, or otherwise than by contract.

In all cases where an Authority has heretofore rejected any or all bids without authority of law and has later awarded the contract to the lowest responsible bidder after again advertising for bids as provided by law, such contracts are hereby ratified and made valid to the same extent as if such bids has been rejected and new bids advertised for and the contracts awarded after the effective date of this act.

* * * * *

D. No member of the Authority or officer or employe thereof shall either directly or indirectly be a party to or be in any manner interested in any contract or agreement with the Authority for any matter, cause or thing whatsoever by reason whereof any liability or indebtedness shall in any way be created against such Authority. If any contract or agreement shall be made in violation of the provisions of this section the same shall be null and void and no action shall be maintained thereon against such Authority, *but any such violation heretofore made shall not in any manner, except as otherwise provided by law, affect any contract or lease heretofore entered into between any Authority and a school district.*

Section 2. The provisions of this act shall become effective immediately upon final enactment.

Commonwealth of Pennsylvania,
Governor's Office,
Harrisburg, August 26, 1953.

I file herewith, in the Office of the Secretary of the Commonwealth, with my objections, House Bill No. 1539, Printer's No. 503, entitled "An act to amend subsections A and D of section 10 of the act, approved the second day of May, one thousand nine hundred forty-five (Pamphlet Laws 382), entitled 'An act providing for the incorporation as bodies corporate and politic of "Authorities" for municipalities, counties and townships; prescribing the rights, powers and duties of such Authorities heretofore or hereafter incorporated; authorizing such Authorities to acquire, construct, improve, maintain and operate projects, and to borrow money and issue bonds therefor; providing for the payment of such bonds, and prescribing the rights of the holders thereof; conferring the right of eminent domain on such Authorities; authorizing such Authorities to enter into contracts with and to accept grants from the Federal Government or any agency thereof; and conferring exclusive jurisdiction on certain courts over rates,' by authorizing Authorities to reject any or all bids on contracts, validating the actions of Authorities and contracts heretofore awarded after the rejection of all the first set of bids, and clarifying the effect of certain contracts heretofore or hereafter made by an Authority in violation of certain provisions of the act."

Subsection D of Section 10 of the Municipality Authorities Act of 1945, the Act of May 2, 1945, P. L. 382, as amended, 53 P. S. Section 2900z-11(D), provides:

"No member of the Authority or officer or employe thereof shall either directly or indirectly be a party to or be in any manner interested in any contract or agreement with the Authority for any matter, cause or thing whatsoever by reason whereof any liability or indebtedness shall in any way be created against such Authority. If any contract or agreement shall be made in violation of the provisions of this section the same shall be null and void and no action shall be maintained thereon against such Authority."

This bill is objectionable in so far as it validates contracts which violate the above cited law. Even in the absence of such a statutory prohibition, such contracts are against public policy and the courts have so held. See 43 Am. Jur., Sec. 299 and Goodyear v. Brown, 155 Pa. 514.

To validate such contracts is to invite others to disregard or violate the law, thus striking down public confidence in the administration of public affairs.

A validating act is generally intended to legalize a past transaction which is ineffective because of a failure to comply with legal or technical requirements and not to legalize that which was null and void ab initio.

For these reasons, the bill is not approved.

JOHN S. FINE

AN ACT

Validating certain contracts and employments entered into between Municipality Authorities and persons where the same person holding a contract as architect for a project shall have later been employed by the Authority to perform other services and duties.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Whenever any individual shall have heretofore been under contract with a school district for his services as an architect in relation to a certain project and the project and the contracts relative thereto were heretofore assigned to an Authority as authorized by law, and thereafter, prior to this enactment, the Authority, in order to facilitate the construction of the project, employed or entered into a contract with the architect for the performance of other services and duties, notwithstanding the provisions of subsection D of section 10 of the act, approved the second day of May, one thousand nine hundred forty-five (Pamphlet Laws 382), which prohibits any employe of an Authority to be a party to or interested in any contract or agreement with the Authority, if such employment required the performance of duties not included in his original contract as architect for the project and such contracts have to a large extent been performed and the services rendered and the Authority has received the benefits therefrom, and if said employment does not evidence any fraud or conspiracy to violate the laws of the Commonwealth, then such contracts or contract and employment shall be valid and binding, and payment by the Authority for such services, as agreed to in the contract and the contract of employment, is hereby authorized, ratified, confirmed and validated to the same extent as if the person employed as aforesaid was not a party to or interested in any contract with the Authority.

Commonwealth of Pennsylvania,
Governor's Office,
Harrisburg, August 26, 1953.

I file herewith, in the Office of the Secretary of the Commonwealth, with my objections, House Bill No. 1584, Printer's No. 522, entitled "An act validating certain contracts and employments entered into between Municipality Authorities and persons where the same person holding a contract as architect for a project shall have later been employed by the Authority to perform other services and duties."

This bill proposes to validate the contracts to obligate the Authority to make payments thereunder where an architect entered into a contract with an Authority to perform services as an architect, and at about the same time was employed by the Authority to perform other services and duties.

Subsection D of Section 10 of the Municipality Authorities Act of 1945, the Act of May 2, 1945, P. L. 382, as amended, 53 P. S. Section 2900z-11(D), provides:

“No member of the Authority or officer or employe thereof shall either directly or indirectly be a party to or be in any manner interested in any contract or agreement with the Authority for any matter, cause or thing whatsoever by reason whereof any liability or indebtedness shall in any way be created against such Authority. If any contract or agreement shall be made in violation of the provisions of this section the same shall be null and void and no action shall be maintained thereon against such Authority.”

This bill would validate contracts entered into despite the express prohibition of the above cited statute. Even in the absence of such a statutory prohibition, such contracts are against public policy and the courts have so held. See 43 Am. Jur., Sec. 299 and *Goodyear v. Brown*, 155 Pa. 514.

To validate such contracts is to invite others to disregard or violate the law, thus striking down public confidence in the administration of public affairs.

A validating act is generally intended to legalize a past transaction which is ineffective because of a failure to comply with legal or technical requirements and not to legalize that which was null and void ab initio.

For these reasons, the bill is not approved.

JOHN S. FINE

No. 21

AN ACT

Providing for the appointment of a board of visitation in counties of the first class for institutions, societies and associations caring for dependent, neglected or delinquent children, for the making of nominations of appointment thereto, and for the duties of such board.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. It shall be the duty of the court of common pleas in each county of the first class to appoint a board consisting of six or more reputable citizens, who shall serve without compensation, to constitute a Board of Visitors, whose duty it shall be to visit, at least once a year, all institutions, societies and associations within the county into whose care and custody dependent, neglected or delinquent children shall be committed under the provisions of the laws of this Commonwealth, and all charitable, reformatory or penal institutions, and all institutions within the county which receive their inmates from more than one county and are supported or managed, in whole or in part, by the Commonwealth or any of the officers thereof, and all institutions within the county which are wholly supported and managed by any city or county of the Commonwealth. Visits shall be made monthly by not less than two of the members of the board, who shall report to the board. The Board of Visitors shall make reports to the court from time to time on matters pertaining to the welfare of the institutions, particularly the treatment received by the inmates. A copy of the

report shall be submitted by the board to the persons in charge of the institutions, societies and associations. The board shall make an annual report to the Governor, the Department of Welfare and members of the General Assembly. The Board of Visitors shall be entitled to receive from the county in which they are appointed such sum or sums of money for actual and necessary expenses as may be approved by the board of county commissioners in their county.

Section 2. The court of common pleas in each county of the first class may receive nominations of persons for appointment on the Board of Visitation submitted to the court by any corporation organized under the laws of this Commonwealth for the study and improvement of the conditions of charitable, reformatory or penal institutions, and such nominations shall in no way interfere with the exercise of free discretion by the court in making appointments.

Commonwealth of Pennsylvania,
Governor's Office,
Harrisburg, August 26, 1953.

I file herewith, in the Office of the Secretary of the Commonwealth, with my objections, Senate Bill No. 61, Printer's No. 193, entitled "An act providing for the appointment of a board of visitation in counties of the first class for institutions, societies and associations caring for dependent, neglected or delinquent children, for the making of nominations of appointment thereto, and for the duties of such board."

This bill would provide for the appointment of a board of visitation in counties of the first class for institutions, societies and associations caring for dependent, neglected or delinquent children, which board would be required to visit such agencies, at least annually, and make a report of its findings.

The purposes of this bill, as set forth in its title, appear to be worthwhile. However, the bill itself does not effectively carry out these purposes, but instead, if enacted into law, might well create a situation productive of more harm than good.

The bill provides for the appointment of this proposed board of visitation by the court of common pleas with reports to be made to that court. If the purpose of the bill is as set forth in its title to create a board to visit and report on institutions and agencies caring for dependent, neglected or delinquent children, these provisions are inconsistent with the Act of July 12, 1913, P. L. 711, which created the Municipal Court of Philadelphia and gave that court jurisdiction in matters relating to juveniles. Philadelphia is the only county of the first class in the Commonwealth and, therefore, the court within that county primarily responsible for matters relating to dependent, neglected or delinquent children, should of necessity be the court to appoint such a board as this bill proposes and receive and act upon its reports of visitations. The provisions of this bill will create much unnecessary confusion in the handling of juvenile matters which could jeopardize the effective handling of that vital problem.

In addition to providing for visitation of all institutions, societies and associations caring for juveniles, the bill also provides for visitation by the board of "all charitable, reformatory or penal institutions

and all institutions within the county which receive their inmates from more than one county and are supported or managed in whole or in part by the Commonwealth or any of the officers thereof, and all institutions within the county which are wholly supported and managed by any city or county." It is apparent that this provision goes far beyond the purposes set forth in the title of the bill and is broad enough to include practically every type of State, county or city institution. I do not believe such was the intention of the General Assembly when it passed this bill. Furthermore, such a variation between the title and the actual import of the bill clearly renders it unconstitutional as violative of Article III, Section 3 of the Constitution of Pennsylvania which requires the subject of a bill to be "clearly expressed in its title."

If the intention of the bill is, in fact, to subject all institutions of the Commonwealth located within counties of the first class to inspection by a board appointed by the courts, and that is accepted as a proper principle, then it would follow that this would be proper for every other county of the Commonwealth where State institutions are located. The overlapping of authority between the boards of visitation and the boards of trustees of these institutions could only result in confusion and chaos in their administration and supervision working to the detriment of all.

For these reasons, the bill is not approved.

JOHN S. FINE

No. 22

AN ACT

Creating a joint legislative committee to be known as the Joint Legislative Budget and Finance Committee; providing for its membership; defining its powers and duties; and making an appropriation.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. There is hereby created a continuing joint legislative committee to be known as the Joint Legislative Budget and Finance Committee, and to be composed of the chairmen of the House of Representatives committees on Appropriations and Ways and Means, the chairmen of the Senate committees on Appropriations and Finance, and eight additional members. Four of the additional members shall be Senators, two from the majority party and two from the party having the next largest representation, to be appointed by the President Pro Tempore. The remaining four shall be members of the House of Representatives, two from the majority party and two from the party having the next largest representation, to be appointed by the Speaker. The members of the committee shall be selected during each odd-numbered year and shall continue as members until the first Tuesday in January of the next odd-numbered year and until their respective successors shall be selected. The committee shall organize by the selection of a chairman, who shall not be one of the chairmen of the House of Representatives committees on Appropriations or Ways and Means nor one of the chairmen of the Senate committees on Appropriations or Finance.

Section 2. The committee shall ascertain facts and make recommendations to the General Assembly and to the houses thereof concerning the State budget, the revenues and expenditures of the State, the organization and functions of the State, its departments, political subdivisions and agencies, and such other matters as may be required by concurrent resolution of the General Assembly.

Section 3. The committee shall have power and its duty shall be:

(1) To meet at least quarterly, and conduct its business at any place within the Commonwealth, during the sessions of the General Assembly or any recess thereof and during the interim period between sessions.

(2) To make reports, at least quarterly, showing in detail the exact status of the biennial budget with regard to revenues and expenditures of the State government.

(3) To prepare a digest of all appropriation bills and all bills committing the State to future expenditures introduced in the General Assembly. Such digest shall be begun at the beginning of each session and shall be kept current during the session.

(4) To employ a legislative auditor.

(5) To utilize the personnel and offices of the Joint State Government Commission.

(6) To call upon any department or agency of the State government for such information as it deems pertinent to the studies in which it is engaged. The Auditor General shall deliver to the Joint Legislative Budget and Finance Committee a copy of all audit reports annually made by the Auditor General's department.

Section 4. The sum of twenty-five thousand dollars (\$25,000), or as much thereof as may be necessary, is hereby appropriated to the Joint Legislative Budget and Finance Committee for the two fiscal years beginning the first day of June, one thousand nine hundred fifty-three, for the payment of compensation of employes and of general expenses necessary for the proper conduct of its work.

*Section 5. To act only in an advisory and consultant capacity to the Appropriation committees of the House and Senate and the General Assembly.

Section 6. The provisions of this act shall become effective immediately upon final enactment.

Commonwealth of Pennsylvania,
Governor's Office,
Harrisburg, August 26, 1953.

I file herewith, in the Office of the Secretary of the Commonwealth, with my objections, Senate Bill No. 603, Printer's No. 570, entitled "An act creating a joint legislative committee to be known as the Joint Legislative Budget and Finance Committee; providing for its membership; defining its powers and duties; and making an appropriation."

This bill creates a joint legislative committee to be known as the Joint Legislative Budget and Finance Committee.

This committee would duplicate much of the work of the Budget Office and of the Appropriations Committees of the House and Senate.

* "(5)" in original.

It would also add to the work of the departments, boards and commissions in preparing reports with regard to budgets and appropriations. The issuance of financial reports is obviously an executive function, yet this bill would require the committee to furnish reports at least quarterly showing in detail the exact status of the biennial budget with regard to revenues and expenditures. To compile this information would require the services of a large staff and the duplication of the work of many State departments and bureaus.

Furthermore, the bill carries an appropriation of twenty-five thousand dollars and no provision was made for this in the budget.

For these reasons, the bill is not approved.

JOHN S. FINE

No. 23

AN ACT

Providing for the establishment of police pension funds or pension annuities in boroughs, towns and townships and the regulation and maintenance thereof; providing for continuance of existing funds or transfer thereof to funds herein established; prescribing rights of beneficiaries; and repealing certain acts.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Each borough, town and township of this Commonwealth maintaining a police force shall establish, by ordinance, a police pension fund or pension annuity, to be maintained by an equal and proportionate monthly charge against each member of the police force which shall not exceed annually three per centum of the pay of such member, by annual appropriations made by the borough, town or township, by payments made by the State Treasurer to the municipal treasurer from the monies received from taxes paid upon premiums by foreign-casualty insurance companies for purposes of pension, retirement or disability benefits for policemen, and by gifts, grants, devises or bequests granted to the pension fund pursuant to section two of this act. Such fund shall be under the direction of the governing body of the borough, town or township, or committed to the direction of such committee as may be designated by such governing body, and applied under such regulations as such governing body may by ordinance prescribe, for the benefit of such members of the police force as shall receive honorable discharge therefrom by reason of age or disability and the families of such as may be injured or killed in the service, but such pension allowances as shall be made to those who are retired by reason of disability or age shall be in conformity with a uniform scale.

The annual appropriation made by the borough, town or township each year shall be sufficient, when added to the contributions made by members of the police force during such year, payments made by the State Treasurer to the municipal treasurer from the moneys received from taxes paid upon premiums by foreign-casualty insurance companies for purposes of pension, retirement or disability benefits for policemen, and income from investments, trust funds, other lawful enterprises, together with any other monies paid into such police

pension fund according to existing law and practices, to pay in full the pensions payable during such year.

Section 2. It shall be competent for any borough, town or township police pension fund to take, by gift, grant, devise or bequest, any money or property, real, personal, or mixed, in trust, for the benefit of such fund, and the care, management, investment and disposal of such trust funds or property shall be vested in the person or persons having the management of such police pension fund, and the said trust funds shall be governed thereby, subject to such directions, not inconsistent therewith, as the donors of such funds and property may prescribe.

Section 3. Each ordinance establishing a police pension fund shall prescribe a minimum period of total service, not less than twenty years, and a minimum age of fifty years, after which members of the force may be retired from active duty, and such members as are retired shall be subject to service from time to time as a police reserve until unfitted for such service, when they may be finally discharged by reason of age or disability.

Section 4. Any member of the police force employed by a borough, town or township who has been a regularly appointed employe of any such political subdivision for a period of at least six months, and who thereafter shall heretofore or hereafter be inducted into the military service of the United States, in time of war or national emergency so proclaimed by the President of the United States, shall have credited to his employment record, for pension or retirement benefits, all of the time spent by him in such military service during the continuance of such war or national emergency, if such person returns or has heretofore returned to his employment within six months after his separation from the service.

Section 5. Payments made under the provisions of this act shall not be a charge on any other fund in the treasury of any borough, town or township or under its control, save the police pension fund herein provided for. The basis of the apportionment of the pension shall be determined by the rate of the monthly pay of the member at the date of death, honorable discharge, or retirement, and shall not in any case be less than one-half the highest pay of such member during any period of twelve months within the last sixty months of employment, computed at such monthly rate.

Section 6. (a) Where there is an existing pension fund managed by a private organization or association for the members of the police force in any borough, town or township on the effective date of this act, such fund shall continue as constituted only upon the following terms and conditions:

(1) The amount paid in pensions to each beneficiary under the established fund shall be in excess of any amount so payable from the fund established pursuant to this act; and

(2) If the borough, town or township in which such an established fund exists undertakes to annually appropriate sufficient monies to compensate the existing fund for any deficit in the amount of money needed to pay pension obligations during any calendar year; and

(3) If not over two-thirds of the beneficiaries and dues-paying membership of the existing organization or association vote to transfer

its funds into a pension fund established by a borough, town or township pursuant to this act.

(b) In any instance where an existing fund is transferred to a fund established by a political subdivision pursuant to the provisions of this act, all the assets and liabilities of such existing fund shall be so transferred. Such transfer may be made by the transfer of securities. After such transfer, the borough, town or township police pension fund shall assume the liability of continuing the payment of pensions to members of the police force retired prior to such transfer in accordance with the laws and regulations under which such members were retired.

Section 7. No person participating in a police pension fund established pursuant to the provisions of this act and becoming entitled to receive a benefit therefrom shall be deprived of his right to an equal and proportionate share therein upon the basis upon which he first became entitled thereto.

Section 8. Any member of a police force of a borough, town or township who, for any reason whatsoever, shall be ineligible to receive a pension after having contributed any charges to a police pension fund established pursuant to the provisions of this act or to a police pension fund existing on the effective date of this act supplanted by a police pension fund established pursuant to the provisions of this act, shall be entitled to a refund of all such monies paid by him into such funds immediately upon discontinuance of his employment with the police force.

Section 9. The pension payments herein provided for shall not be subject to attachment, execution, levy, garnishment, or other legal process, and shall be payable only to the beneficiary designated by this act and shall not be subject to assignment or transfer.

Section 10. Subject to the provisions of section 6 of this act, the following acts and parts of acts are hereby repealed, as particularly set forth:

Sections 1131 to 1137 of the act, approved the fourth day of May, one thousand nine hundred twenty-seven (Pamphlet Laws 519), entitled "An act concerning boroughs, and revising, amending, and consolidating the law relating to boroughs," and their reenactments and amendments, absolutely.

Sections 1409 to 1415 of the act, approved the twenty-fourth day of June, one thousand nine hundred thirty-one (Pamphlet Laws 1206), entitled "An act concerning townships of the first class; amending, revising, consolidating, and changing the law relating thereto," and their reenactments and amendments, absolutely.

Sections 595 to 599 of the act, approved the first day of May, one thousand nine hundred thirty-three (Pamphlet Laws 103), entitled "An act concerning townships of the second class; and amending, revising, consolidating, and changing the law relating thereto," and their reenactments and amendments, absolutely.

The act, approved the second day of May, one thousand nine hundred forty-nine (Pamphlet Laws 872), entitled "An act granting credit toward pension or retirement benefits of certain members of the police force employed by political subdivisions for time spent in the military service of the United States," in so far as it relates to boroughs, towns and townships.

The act, approved the twentieth day of May, one thousand nine hundred forty-nine (Pamphlet Laws 1488), entitled "An act relating to police pension funds in boroughs, towns and townships, and authorizing such political subdivisions to appropriate monies thereto," absolutely.

Commonwealth of Pennsylvania,
Governor's Office,
Harrisburg, August 26, 1953.

I file herewith, in the Office of the Secretary of the Commonwealth, with my objections, House Bill No. 151, Printer's No. 285, entitled "An act providing for the establishment of police pension funds or pension annuities in boroughs, towns and townships and the regulation and maintenance thereof; providing for continuance of existing funds or transfer thereof to funds herein established; prescribing rights of beneficiaries; and repealing certain acts."

The purpose of this bill is to establish a police pension fund or pension annuities in boroughs, towns and townships, and regulating the maintenance thereof, providing for continuance of existing funds or transfer thereof to funds therein established and prescribing the rights of beneficiaries.

This bill makes it mandatory for each borough, town and township maintaining a police force, to establish by ordinance a police pension fund or pension annuity and prescribing the amount of contribution to be made by all beneficiaries and by the municipal subdivision in addition to such payments made by the State Treasurer to the municipal treasurer from monies received from taxes paid upon premiums by foreign casualty insurance companies.

On January 5, 1952, I approved an act which provided substantially, in part, that employes of political subdivisions of the Commonwealth may take advantage of the Federal Social Security Act, the Act approved August 14, 1935, Chapter 531, 49 Stat. 620; provided, however, that the political subdivision did not have in existence a pension or retirement system for the benefit of its employes. At the time we were considering particularly the employes of small political subdivisions which were unable to establish a pension or retirement system and this legislation would give them the opportunity to be covered in the same manner as an employe in industry.

There is nothing in the existing law of the Commonwealth, or of the Federal government, which prevents a political subdivision from implementing the Social Security Act by its own pension or retirement system in order to take full advantage of the premiums on foreign casualty insurance companies, which has been accorded them by law.

The Federal program will take care of the employes from the age of sixty-five, and if it is deemed necessary by a municipal subdivision to inaugurate its own pension or retirement system, then retirement may be provided at an earlier age. The Federal program provides also for survivorship payments for widows and children, if at any time employes should die.

The present bill is mandatory and would effectively bar employes of any community from taking advantage of the social security program.

Approximately six hundred subdivisions have already come under

the social security benefits, as provided by the 1951 law. About forty of these have repealed local retirement systems, so that they could come under social security and then revived the local system to supplement the Federal program.

I am advised that there are some fifty other subdivisions which are endeavoring to make the same arrangement to cover their employes, including the police.

I am fully aware of the fact that police officers are performing more hazardous duties than the average public employe, but I have also observed that there is, at the present time, a great deal of confusion relative to the operation of local pension and retirement systems for police and firemen, and I, therefore, believe that this question merits further study and consideration.

For these reasons, the bill is not approved.

JOHN S. FINE

No. 24

AN ACT

Providing that publication of reports of judicial and legislative proceedings and of governmental bodies shall be privileged, subject to certain conditions, and extending the privileges to the publication of certain statements by public officials, and requiring proof of abuse of the privilege in an action for defamation.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Publication of reports of judicial *proceedings, or proceedings of a legislative or administrative body, or an executive officer of the United States, a State or territory thereof, or a municipal corporation, or of a body empowered by law to perform a public duty, is privileged although it contains matter which is false and defamatory, if it is (a) accurate and complete or a fair abridgement of such proceedings, (b) not made solely for the purpose of causing harm to the person defamed. An action for defamation cannot be maintained against any person, firm or corporation for the publication of such reports unless abuse of the privilege is proved.

Section 2. The conditional privilege, as herein provided, shall extend to the publication of official statements made to representatives of the press by any elected or appointed official of the United States or of this Commonwealth, or any of its boards, commissions, agencies, or political subdivisions, pertaining to the performance of their duties, the transaction of business, or relating to investigations in progress or completed by them.

Section 3. The provisions of this act shall become effective immediately upon final enactment.

Commonwealth of Pennsylvania,
Governor's Office,
Harrisburg, August 26, 1953.

I file herewith, in the Office of the Secretary of the Commonwealth, with my objections, House Bill No. 781, Printer's No. 453, entitled

* "proceeding" in original.

“An act providing that publication of reports of judicial and legislative proceedings and of governmental bodies shall be privileged, subject to certain conditions, and extending the privileges to the publication of certain statements by public officials, and requiring proof of abuse of the privilege in an action for defamation.”

The purpose of this bill is to render immune from actions for defamation persons or corporations which publish reports of judicial and legislative proceedings and official statements of public officials pertaining to the performance of their duties.

This purpose would appear to be a laudable one. However, it is questionable whether the bill effectively accomplishes what it proposes to do. Furthermore, in many respects it is ambiguous and uncertain and may well serve only to confuse the law relating to defamation to a degree which would defeat the very purpose of the bill.

Under present law publications of the type enumerated in the bill are granted a conditional privilege which prevents recovery in an action for defamation if the defendant can show that the publication was made upon a proper occasion, from a proper motive, and based upon reasonable or probable cause. In addition the plaintiff must prove actual malice to recover: Act of April 11, 1901, P. L. 74, 12 P. S. §§1582 and 1583; *Morgan v. Bulletin Company*, 369 Pa. 349, 354 (1952).

This bill would not greatly add to the protection now afforded by the law, other than placing upon the plaintiff in an action for defamation the burden of showing that the publication was an abuse of privilege.

The bill provides that publication of a report containing matter which is false and defamatory shall be privileged if the report is accurate and complete or a fair abridgement of the proceedings and is “not made solely for the purpose of causing harm to the person defamed.” The quoted words of the bill are an unfortunate choice of language and imply that a publication may be for the purpose of causing harm so long as that is not the sole reason for such publication. I do not believe such an interpretation was intended, but if enacted into law these words would have to be given such a construction as they are free from ambiguity and not open to judicial interpretation.

Certain terms used in the bill are ambiguous and would be the source of confusion. It speaks of “reports” of judicial and legislative proceedings. Presumably this means news reports, but the term is also subject to the interpretation of official reports of our various courts and those made in the Legislative Journal. Also, the term “publication” is used. It is not clear whether it is meant to include only what is referred to as a publication in general usage or whether it also means publication in the legal sense as used in the law of defamation, i. e., any act which makes public or disseminates defamatory matter to one or more persons. It can readily be seen that such ambiguity might well make less certain rather than clarify the law relating to privileged publications.

Under the present law certain high public officials, in the interest of effective administration of government, are accorded absolute privilege and exempted from civil suits for defamation under any

circumstances so long as the statements they make are in the course of their official actions. This bill could be interpreted as lessening this privilege to the conditional one it sets forth. Such a result was not intended and should not be risked.

On the other hand the bill would grant conditional privilege to statements of every elected or appointed official of the United States, the Commonwealth or any political subdivision no matter how minor his position might be. In this day when we have seen in some quarters the proclivity to damage the reputation of innocent persons by irresponsible statements, it is questionable whether the principle of privilege should be extended so broadly. While I am anxious to see that those who disseminate the news are adequately protected against civil actions for defamation growing out of publications innocently and fairly made, the right of every citizen to be protected from being defamed unjustly must also be considered.

In the belief that this bill does not effectively carry out its praiseworthy purpose, but instead of adding to the protection accorded by the law to those who publish the news might confuse and weaken the law, and in the interest of protecting our citizens against malicious defamation I must conclude that this bill should be vetoed.

For the foregoing reasons, the bill is not approved.

JOHN S. FINE

No. 25

AN ACT

To further amend section 3101 of the act, approved the fourth day of May, one thousand nine hundred twenty-seven (Pamphlet Laws 519), entitled "An act concerning boroughs, and revising, amending and consolidating the law relating to boroughs," by providing fines, penalties and costs may be recoverable by a borough before any justice of the peace or alderman within the county in which such borough is located

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 3101 of the act, approved the fourth day of May, one thousand nine hundred twenty-seven (Pamphlet Laws 519), entitled "An act concerning boroughs, and revising, amending, and consolidating the law relating to boroughs," as reenacted, amended and revised by the act, approved the tenth day of July, one thousand nine hundred forty-seven (Pamphlet Laws 1621), is hereby further amended to read as follows:

Section 3101. Recovery of Fines, Penalties and Costs.—Fines, penalties, and costs made payable by this act, or imposed under any ordinances of the borough, shall be recoverable, before the burgess or any justice of the peace of the borough, or *justice of the peace or alderman of the county*, in the same manner as debts not exceeding three hundred dollars (\$300) are recoverable, and when so recovered shall be forthwith paid to the treasurer of the borough *instituting the proceedings*.

Commonwealth of Pennsylvania,
Governor's Office,
Harrisburg, August 26, 1953.

I file herewith, in the Office of the Secretary of the Commonwealth, with my objections, House Bill No. 1310, Printer's No. 709, entitled "An act to further amend Section 3101 of the act, approved the fourth day of May, one thousand nine hundred twenty-seven (Pamphlet Laws 519), entitled 'An act concerning boroughs, and revising, amending, and consolidating the law relating to boroughs,' by providing fines, penalties and costs may be recoverable by a borough before any justice of the peace or alderman within the county in which such borough is located."

This bill had its immediate origin in a desire to avoid the effect of the opinion of the Court of Common Pleas of Lackawanna County in the case of Borough of Throop v. Matyassi, 53 Lackawanna Jurist 135, (1952) wherein it was held that actions to recover fines and penalties for violations of a borough ordinance imposing a wage tax could not be brought before any justice of the peace or alderman of the county but had to be brought before a burgess or justice of the peace of the borough imposing the tax. The warrant involved in the case was issued by an alderman in the City of Scranton for a violation of an ordinance in force in the Borough of Throop and the reason for the dislocation of venue will be found in the following abstract from the opinion of the court:

"While it does not appear of record, counsel for the Borough at the oral argument stated that one of the reasons impelling the Borough to bring this action before an alderman of the city rather than before the burgess or one of the justices within the Borough was that these officials were unwilling to entertain such actions. As to this we may observe that the avoidance of public duty by officers competent and required to perform the same does not confer jurisdiction on other officers to accept such responsibilities."

In an attempt to point out the proper course of procedure to remedy the situation presented in the above case, the court also said:

"Since actions to enforce the penalty provisions of Borough ordinances are made local rather than transitory, the local courts are required to entertain actions properly laid before them in cases arising within their territorial jurisdiction. If they deny or delay the administration of justice, an action of mandamus will lie against them, (Com. ex rel. Duff v. Kennan, 347 Pa. 574) and subject them to the possibility of punishment for contempt for failure to obey a judgment in mandamus commanding them to perform their duties. Obviously, for continued refusal they may also be subject to the removal processes provided by Sections 3 and 4 of Article 6 of the Constitution, to wit, impeachment, removal by the Governor on the address of the Senate or upon conviction of misbehavior in office."

One could hardly disagree with the foregoing and it would seem that failure to take action against the minor judiciary or the burgess, who has the mandatory duty under the Borough Code of enforcing the

ordinances and regulations of the Borough and can exercise the power of a justice of the peace, has created a mild form of anarchy insofar as the government of the borough, through ordinances and regulations, are concerned. Where will boroughs turn or what action will they take if the minor judiciary throughout the county are equally capricious or follow similar whims dictated by friendship, political or otherwise?

We would look favorably upon any sound attempt to facilitate or insure the collection of borough taxes but the sweeping effect of this bill gives county-wide jurisdiction to the minor judiciary in cases involving violations of all borough ordinances and regulations which, as said by the court in the last preceding quotation, "are made local rather than transitory." Neither the defendants nor borough representatives should be required to proceed to the far corners of a county to defend or prosecute actions for the violation of borough ordinances or regulations dealing with matters of health, safety, traffic regulations, or kindred subjects, which are purely local in nature.

Enactment of this bill into law would weaken the efficacy of the burgess and minor judiciary as forums for the stabilization of the government of boroughs and strengthen the cause of those who are opponents of home rule. A step so drastic should not be taken until it is proven by the empiric method that proceedings by mandamus or impeachment are hopeless.

For these reasons, the bill is not approved.

JOHN S. FINE

No. 26

AN ACT

To amend the title and the act, approved the twenty-fifth day of May, one thousand nine hundred fifty-one (Pamphlet Laws 415), entitled "An act relating to habeas corpus; conferring jurisdiction upon the judges of the courts of common pleas; prescribing venue; defining procedure in all cases; authorizing service to be made upon persons anywhere in the Commonwealth; providing for the imposition of costs; allowing appeals; specifying the appellate court to which appeals may be taken; and repealing inconsistent legislation, including that conferring jurisdiction on courts of quarter sessions," by changing venue relating to juveniles committed by any court exercising the powers of a juvenile court; eliminating jurisdiction of judges of the common pleas with reference to such juveniles in certain counties and conferring jurisdiction upon certain other judges in such counties in those cases; limiting appeals in certain cases; prescribing the effect of court orders and decisions; and further defining procedure relating to habeas corpus.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The title of the act, approved the twenty-fifth day of May, one thousand nine hundred fifty-one (Pamphlet Laws 415), entitled "An act relating to habeas corpus; conferring jurisdiction upon the judges of the courts of common *pleas; **prescribing venue; defining procedure in all cases; authorizing service to be made upon persons anywhere in the Commonwealth; providing for the imposition

* "please" in original.

** "describing" in original.

of costs; allowing appeals; specifying the appellate court to which appeals may be taken; and repealing inconsistent legislation, including that conferring jurisdiction on courts of quarter sessions,' is hereby amended to read as follows:

An Act

Relating to habeas corpus; conferring jurisdiction upon the judges of the courts of common pleas *in certain cases and judges of other courts in certain counties with reference to certain juveniles*; prescribing venue; defining procedure in all cases; authorizing service to be made upon persons anywhere in the Commonwealth; providing for the imposition of costs; allowing appeals; specifying the appellate court to which appeals may be taken; and repealing inconsistent legislation, including that conferring jurisdiction on courts of quarter sessions.

Section 2. Sections one, three, four and five of said act are hereby amended to read as follows:

Section 1. (1) Any judge of a court of common pleas within this Commonwealth shall have jurisdiction, at any time, to issue a writ of habeas corpus upon application by, or on behalf of, any person (hereafter called the relator) alleged to be unlawfully imprisoned or detained in any penitentiary, prison, reformatory, house of detention, mental institution, or other place, (a) within the judge's judicial district, or (b) outside of his judicial district, if the relator was committed by action of any court of the judge's judicial district [: Provided, That when relator's detention or confinement is by virtue of sentence after conviction].

(2) *When relator's detention or confinement is by virtue of sentence after conviction for a criminal offense, or commitment by any court exercising the powers of a juvenile court, only a judge of the judicial district of conviction and sentencing or commitment shall exercise such jurisdiction.*

(3) *In any county having a municipal court exercising the powers of a juvenile court and any county having a separate juvenile court, when the detention or confinement is by virtue of a commitment ordered by such courts, a judge of the court of common pleas shall not have jurisdiction, but such jurisdiction is hereby vested in any judge of the court which ordered the commitment.*

(4) *When the basis of the petition is an alleged defect or illegality in a criminal proceeding by which the person is imprisoned pursuant to a judgment and sentence which have been affirmed on direct appeal or sustained in a collateral proceeding by a superior court, such petition shall not be entertained by any judge authorized under the provisions of this act to do so without first obtaining authorization from the appellate court which affirmed the judgment.*

Section 3. An application for a writ of habeas corpus shall be by petition, duly verified by the relator or by someone on his behalf, and also signed by his attorney, if any. It shall be the duty of the relator or person acting on his behalf to attach to his petition copies of any petitions for a writ of habeas corpus which have been previously filed

in any state or Federal court, the determination made by the court, and, if an appeal was taken or applied for and allowed or disallowed, a copy of the order or opinion of such appellate court or a reference thereto in the printed reports of such court. If the basis for such petition consists of facts not contained in the original or trial record, the petition shall set forth such facts, together with the affidavits of the person or persons by whom the relator or person acting on his behalf expects to prove such facts. Successive petitions upon the same facts or basis shall not be entertained. In all instances where relator is undergoing detention or confinement as the result of conviction and sentence upon a criminal charge or commitment as a juvenile, relator shall present his petition to a judge of the judicial district wherein he was convicted and sentenced or committed, except as otherwise provided in subsection three of section one with reference to certain juveniles, in which case it shall be presented to a judge of the appropriate court designated therein; in all other instances, he may present his petition to any judge having jurisdiction. If not absent or disabled, the petition shall be presented to the judge who presided at the trial or other proceeding resulting in the judgment and sentence or commitment or who rendered a decision upon a former petition.

Section 4. Upon the presentation of a petition, as aforesaid, to any judge having jurisdiction, he may, if he believes the circumstances justify it, direct the writ to issue forthwith, or he may allow a rule to show cause why the writ should not be issued, returnable in not more than twenty days. Service of the writ or the rule to show cause, as the case may be, shall be made forthwith in such manner as the judge shall direct, anywhere in the Commonwealth, upon the warden, superintendent or other person in charge of the penitentiary, prison, reformatory, house of detention, mental institution, or other place in which the relator is imprisoned or detained. Notice of the rule to show cause and copies of the petition shall also be [given to] served upon such other interested parties [(including the district attorney and Attorney General, in [proper cases), and] cases involving a criminal judgment, and the district attorney in other proper cases, in such manner as the judge shall direct. If a rule has been allowed, the judge who allowed it, or, in case of his absence or disability, any other judge of his court, may, upon or after the return day, order the writ to issue or discharge the petition. On application for a writ of habeas corpus, evidence may be taken orally or by deposition, or, in the discretion of the judge, by affidavit. If affidavits are admitted, any party shall have the right to propound written interrogatories to the affiants or to file answering affidavits.

Section 5. [In ordering the writ to issue, or in awarding a rule to show cause,] Where the judge orders the writ to issue, or where, after the return day of a rule to show cause, the petition, answer and the *original trial record disclose an issue of fact which if proved would entitle relator to relief, the judge shall fix a date for a hearing, which shall be held as promptly as may be, and may or may not order the relator to be produced at the hearing, as the circumstances may war-

* "originator" in original.

rant, and except when the relator is charged with a non-bailable offense or has been convicted and sentenced, the judge may, in his discretion, fix bail in such amount as he deems appropriate for the appearance of the relator at the time and place of hearing and may order his discharge meanwhile.

The allegations of a return to the writ of habeas corpus or of an answer to a rule to show cause in a habeas corpus proceeding, if not traversed, shall be accepted as true, except to the extent that the judge finds from the evidence that they are not true.

Section 3. Said act is hereby amended by adding, immediately following section five, a new section to read as follows:

*Section 5.1. On the hearing of an application for a writ of habeas corpus to *inquire into the legality of the detention of a person pursuant to a judgment, the certificate of the judge who presided at the trial or other proceedings resulting in the judgment, setting forth the facts occurring at the trial or other proceedings, shall be admissible in evidence. Copies of the certificate shall be filed with the court in which the application is pending and in the court in which the trial took place.*

Section 4. Sections six and seven of said act are hereby amended to read as follows:

Section 6. After hearing, the judge shall dismiss the writ, order the discharge of the relator, or make such other order as shall be appropriate, *but no order discharging relator shall become effective until five days after it is entered.* He shall impose costs, which shall include the actual expenses, if any, of bringing the relator to the place of hearing. *In cases involving a person imprisoned pursuant to a judgment and sentence, costs shall be imposed upon the relator, any person acting on his behalf, or upon the county.*

Section 7. *Except as hereinafter provided, from the decision of any judge upon any petition for a writ of habeas corpus, or upon any order made pursuant to a hearing on the writ, an appeal may be taken as in other cases: Provided, however, that when the basis of the petition is an alleged defect or illegality in a criminal proceeding by which the person is imprisoned pursuant to a sentence after conviction and the petition is discharged or the writ dismissed, an appeal may be taken only if the appellate court having jurisdiction shall allow such appeal upon consideration of a petition requesting allowance thereof (copies of which shall be served by appellant upon the district attorney and Attorney General), the record and opinion of the court below, all of which shall be filed in said appellate court within thirty (30) days from entry of the decision of the court below.* When the basis of the petition is an alleged defect or illegality in a criminal proceeding, the appeal shall be to the court which has appellate jurisdiction in cases involving the crime with which the person imprisoned or detained is charged or of which he has been convicted. In all cases involving the custody of minors or of persons alleged to be mentally ill, appeals shall be to the Superior Court. In all other cases, appeals shall be to the Supreme Court.

Section 5. The provisions of this act shall become effective immediately upon final enactment.

* "inquire" in original.

Commonwealth of Pennsylvania,
Governor's Office,
Harrisburg, August 26, 1953.

I file herewith, in the Office of the Secretary of the Commonwealth, with my objections, House Bill No. 1363, Printer's No. 801, entitled "An act to amend the title and the act approved the twenty-fifth day of May, one thousand nine hundred fifty-one (Pamphlet Laws 415), entitled 'An act relating to habeas corpus; conferring jurisdiction upon the judges of the courts of common pleas; prescribing venue; defining procedure in all cases; authorizing service to be made upon persons anywhere in the Commonwealth; providing for the imposition of costs; allowing appeals; specifying the appellate court to which appeals may be taken; and repealing inconsistent legislation, including that conferring jurisdiction on courts of quarter sessions,' by changing venue relating to juveniles committed by any court exercising the powers of a juvenile court; eliminating jurisdiction of judges of the common pleas with reference to such juveniles in certain counties and conferring jurisdiction upon certain other judges in such counties in those cases; limiting appeals in certain cases; prescribing the effect of court orders and decisions; and further defining procedure relating to habeas corpus."

In recent years, there has been a very substantial increase in the number of habeas corpus cases, especially those instituted by prisoners confined by virtue of a sentence after conviction for a criminal offense.

Most of these cases are without merit, and have proven burdensome to our courts. This bill is designed to aid the courts in the expeditious disposition of these cases.

While many of the provisions of this bill are meritorious and would be helpful in correcting the situation, I am of the opinion that the problem should receive further study.

For these reasons, the bill is not approved.

JOHN S. FINE

No. 27

AN ACT

To further amend subdivision five of the compact contained in the act, approved the fifth day of June, one thousand nine hundred thirty-seven (Pamphlet Laws 1664), entitled "An act to ratify and adopt a compact or agreement negotiated by commissioners designated by the Governor of the Commonwealth of Pennsylvania, and commissioners designated by the Governor of the State of Ohio, relative to the development, use, and control of the Pymatuning Lake and the State owned land surrounding said lake for fishing, hunting, recreational, and park purposes," so as to permit, on portions of said lake, the operation of boats equipped with motors of limited horsepower rating or development.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Subdivision five of the compact contained in the act, approved the fifth day of June, one thousand nine hundred thirty-seven (Pamphlet Laws 1664), entitled "An act to ratify and adopt a compact or agreement negotiated by commissioners designated by the Governor

of the Commonwealth of Pennsylvania, and commissioners designated by the Governor of the State of Ohio, relative to the development, use, and control of the Pymatuning Lake and the State owned land surrounding said lake for fishing, hunting, recreational, and park purposes," as amended by the act, approved the twentieth day of April, one thousand nine hundred forty-five (Pamphlet Laws 282), is hereby further amended to read as follows:

5. Boats and Vessels. No hydroplanes or aquaplanes nor any type of boats equipped with motors having a developed horsepower rating in excess of six, unless such motors are equipped with governors as hereafter provided, shall be permitted anywhere on said lake. Sail boats, row boats, canoes and power or motor boats equipped with motors having a developed horsepower rating of six or less, or equipped with motors having governors attached in such manner that the motors will develop no more than six horsepower, shall be permitted, provided the owners first obtain a license from the respective state of which the owner is a resident, under such regulations as each party to this agreement may now have or hereafter adopt: Provided, nevertheless, That the use of any type of power or motor boats is expressly limited and restricted to that portion of the lake extending from the main dam near Jamestown northwardly to the Pennsylvania Railroad track running southerly from Linesville.

Section 2. This act shall become effective immediately upon final enactment, but shall not become operative until passage by the State of Ohio of a substantially similar amendatory act ratifying the changes in the compact herein proposed.

Commonwealth of Pennsylvania,
Governor's Office,
Harrisburg, August 26, 1953.

I file herewith, in the Office of the Secretary of the Commonwealth, with my objections, House Bill No. 1453, Printer's No. 785, entitled, "An act to further amend subdivision five of the compact contained in the act, approved the fifth day of June, one thousand nine hundred thirty-seven (Pamphlet Laws 1664), entitled 'An act to ratify and adopt a compact or agreement negotiated by commissioners designated by the Governor of the Commonwealth of Pennsylvania, and commissioners designated by the Governor of the State of Ohio, relative to the development, use, and control of the Pymatuning Lake and the State owned land surrounding said lake for fishing, hunting, recreational, and park purposes,' so as to permit, on portions of said lake, the operation of boats equipped with motors of limited horsepower rating or development."

The purpose of this bill evidently is to permit boats of any types equipped with a motor having a developed horsepower rating of 6 horsepower to operate on all parts of Pymatuning Lake. The present law provides that no boats equipped with motors in excess of 6 horsepower rating shall be permitted anywhere on the lake, and at all events shall be limited and restricted to that portion of the lake extending from the main dam near Jamestown northwardly to the causeway at or near Espyville, Pennsylvania.

Although this bill is not in accord with opinions developed at a meeting between representatives of the State of Ohio and this Commonwealth recently held at Pymatuning Lake, I am not convinced that what the bill proposes to do lacks merit. This is an amendment to a compact, and of course requires legislative action by the State of Ohio.

I have received letters, telegrams and other communications from a vast number of people within our Commonwealth asking me to approve this legislation, and as I have before stated, it is with the greatest reluctance that I am compelled to do otherwise.

Article III, Section 6 of the Constitution of Pennsylvania provides that "no law shall be revived, amended, or the provisions thereof extended or conferred, by reference to its title only, but so much thereof as is revived, amended, extended or conferred shall be re-enacted and published at length," and the Supreme Court has stated that if the declared purpose is to amend a section of an act the entire section must be re-enacted and published at length, including any subsection or part which it is intended to abrogate, which subsection or part must be placed between brackets; in other words, the intended abrogation must be affirmatively disclosed.

In addition, Section 71 of the Statutory Construction Act implementing the Constitution, provides that the Secretary of the Commonwealth shall, in printing amendatory laws, cause to be printed that section or part only as re-enacted. In the section or part of the law re-enacted the Secretary shall cause to be printed between brackets the words, phrases or provisions of the existing law which have been stricken out or amended by the provision of the amendment and shall cause to be printed in italics all new words, phrases or provisions which, if any, have been inserted into or added to the law by the passage of such amendment. The reason for the Constitutional provision and the implementation of the Statutory Construction Act is obviously intended to enable both the legislators themselves and all persons interested in the legislation to see exactly the changes made between the existing law and the re-enactments without the necessity of referring to the former for comparison.

In the printing of bills for presentation to the Legislature, therefore, those parts of the sections intended to be abrogated are enclosed between brackets; any new language added to the section is underscored, and upon passage of the bill and its final approval, the Secretary of the Commonwealth and the State printers can tell at a glance exactly those parts to be enclosed in brackets and those parts to be italicized.

Unfortunately the provisions of the Constitution and the laws were not followed in the printing of this bill for presentation to the Legislature and it is my belief, supported by that of the Attorney General, that this renders the bill fatal and makes it impossible for me to annex my signature of approval. These are errors which, during the course of legislative enactment do occur, irrespective of how carefully a measure is prepared, but in this instance renders the bill unconstitutional.

For these reasons, the bill is not approved.

JOHN S. FINE

AN ACT

To further amend section 1 of the act, approved the twelfth day of June, one thousand nine hundred nineteen (Pamphlet Laws 476), entitled, as amended, "An act to regulate and establish the fees to be charged and collected by the recorder of deeds, in counties of the second class," by further increasing, regulating and changing such fees.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 1 of the act, approved the twelfth day of June, one thousand nine hundred nineteen (Pamphlet Laws 476), entitled, as amended, "An act to regulate and establish the fees to be charged and collected by the recorder of deeds, in counties of the second class," as amended by the act, approved the eighteenth day of May, one thousand nine hundred forty-five (Pamphlet Laws 706), is hereby further amended to read as follows:

Section 1. Be it enacted, &c., That the fees to be charged and collected by the recorder of deeds, in counties of the second class, shall be as follows:

For recording deeds, the minimum fee for not more than one description or more than four legal cap typewritten pages shall be [three dollars and fifty cents (\$3.50)] *five dollars and twenty-five cents (\$5.25)*; and for each additional description, [thirty-five cents (35¢)] *fifty cents (50¢)* extra.

For recording sheriff's deeds, [three dollars (\$3.00)] *four dollars and fifty cents (\$4.50)*.

For indexing deeds, mortgages, and all other writings with more than four names, [fifteen cents (15¢)] *twenty-five cents (25¢)* extra for each additional name.

For recording agreements, leases, oil and gas leases, rights of way, municipal ordinance vacating streets, lanes, or alleys, or parts thereof, of not more than four legal cap typewritten pages, the minimum fee shall be [three dollars and fifty cents (\$3.50)] *four dollars and fifty cents (\$4.50)*; and fifty cents (50¢) for each additional legal cap typewritten page or fractional part thereof.

For recording assignments of agreements, leases, oil and gas leases, rights of way, or other instrument of writing, by separate paper, except such as are herein specially provided, of not more than two legal cap typewritten pages, the minimum fee shall be [two dollars and fifty cents (\$2.50)] *three dollars and fifty cents (\$3.50)*; and fifty cents (50¢) for each additional page or fractional part thereof.

For recording adjudication in bankruptcy, [two dollars and fifty cents (\$2.50)] *three dollars and fifty cents (\$3.50)*.

For recording widow's election, [two dollars and twenty-five cents (\$2.25)] *three dollars and twenty-five cents (\$3.25)*.

For recording widow's appraisement, [three dollars and twenty-five cents (\$3.25)] *four dollars and twenty-five cents (\$4.25)*.

For recording release of legacies, [two dollars and twenty-five cents (\$2.25)] *three dollars and twenty-five cents (\$3.25)*.

For recording military or naval discharge, one dollar (\$1.00). Fee to be paid by the county.

For recording military or naval certificate of service, one dollar (\$1.00). Fee to be paid by the county.

For recording decree of feme sole trader, [two dollars and fifty cents (\$2.50)] *three dollars and fifty cents (\$3.50)*.

For recording declaration of trust of not more than one description of property or more than four legal cap typewritten pages, the minimum fee shall be [three dollars and fifty cents (\$3.50)] *four dollars and fifty cents (\$4.50)*; and fifty cents (50¢) for each additional page or fractional part thereof.

For recording decree or order of court of not more than two legal cap typewritten pages, [two dollars and fifty cents (\$2.50)] *three dollars and fifty cents (\$3.50)*; and fifty cents (50¢) for each additional page or fractional part thereof.

For recording mortgages of not more than one description or more than four legal cap typewritten pages, the minimum fee shall be [three dollars and fifty cents (\$3.50)] *five dollars and twenty-five cents (\$5.25)*; and each additional description twenty-five cents (25¢) extra.

For recording assignment of mortgage when attached to mortgage at time of recording, one dollar (\$1.00).

For recording assignment of mortgage by separate paper of not more than one assignment, [two dollars and twenty-five cents (\$2.25)] *three dollars and twenty-five cents (\$3.25)*; for noting each additional assignment, [twenty cents (20¢)] *fifty cents (50¢)*.

For recording satisfaction, partial payment, postponement, or release, by separate paper, [two dollars and twenty-five cents (\$2.25)] *three dollars and twenty-five cents (\$3.25)*.

For entering satisfactions, assignments, partial payments, releases, extensions, and postponements, on margin of mortgage record, [one dollar and fifty cents (\$1.50)] *two dollars (\$2.00)*.

For entering partial payment, release, extension, and assignment, under one marginal entry, [one dollar (\$1.00)] *two dollars (\$2.00)* for first item; and fifty cents (50¢) for each additional item.

For mortgage searches on not more than one piece of property, each name, [one dollar (\$1.00)] *two dollars (\$2.00)*; and for each unsatisfied mortgage shown, fifty cents (50¢).

For reporting mortgage, lien, assignment or satisfaction thereof, to the county commissioners or board of assessors, [ten cents (10¢)] *twenty-five cents (25¢)* each, to be paid by the county.

For recording or exemplifying of commission for notary public, with bond and oath, [five dollars (\$5.00)] *six dollars (\$6.00)*; city or county officer, with bond and oath, [five dollars (\$5.00)] *six dollars (\$6.00)*; justice of the peace or alderman, with bond and oath, [five dollars and fifty cents (\$5.50)] *six dollars and fifty cents (\$6.50)*; special police officer, [three dollars (\$3.00)] *five dollars (\$5.00)*.

For exemplification of special police officer's oath, [one dollar (\$1.00)] *two dollars (\$2.00)*.

For furnishing Auditor General with information concerning limited partnerships, twenty-five cents (25¢).

For affidavit and acknowledgment of bondsmen for notary public, justice of the peace, aldermen, one person, fifty cents (50¢); two persons, seventy-five cents (75¢).

For recording powers of attorney of not more than two names or more than two legal cap typewritten pages, the minimum fee shall be [two dollars and fifty cents (\$2.50)] *three dollars and fifty cents (\$3.50)*; and fifty cents (50¢) for each additional page or fractional part thereof.

For noting any instrument on margin of record, [twenty cents (20¢)] *fifty cents (50¢)*.

For recording charters or limited partnerships of not more than four legal cap typewritten pages, the minimum fee shall be [three dollars and fifty cents (\$3.50)] *four dollars and fifty cents (\$4.50)*; and fifty cents (50¢) for each additional page or fractional part thereof.

For recording bank bonds, [two dollars and fifty cents (\$2.50)] *three dollars and fifty cents (\$3.50)*.

The fee for services not herein specifically provided for shall be the same as for similar services.

Section 2. This act shall become effective ten days following final enactment.

Commonwealth of Pennsylvania,
Governor's Office,
Harrisburg, August 26, 1953.

I file herewith, in the Office of the Secretary of the Commonwealth, with my objections, Senate Bill No. 27, Printer's No. 20, entitled "An act to further amend section 1 of the act, approved the twelfth day of June, one thousand nine hundred nineteen (Pamphlet Laws 476), entitled, as amended, 'An act to regulate and establish the fees to be charged and collected by the recorder of deeds, in counties of the second class,' by further increasing, regulating and changing such fees."

This bill amends the fee bill of the recorder of deeds in counties of the second class by raising the fees charged by the recorder on most instruments on which he performs recording services. Fees for recording deeds and mortgages would be raised from \$3.50 to \$5.25. Other fees would be doubled, in some instances.

I am reliably informed that the office of the recorder of deeds has been operating at a large profit for some time and there appears to be no necessity for increasing the fees at this time.

The Allegheny County Bar Association is opposed to any increase and since there is no apparent need to increase these fees in order to insure the efficient operation of the office, I am withholding my approval from this bill.

For these reasons, the bill is not approved.

JOHN S. FINE

AN ACT

Establishing minimum compensation and increments for administrators and members of the faculty of certain State-owned schools, and imposing duties on the Boards of Trustees of such schools and the Superintendent of Public Instruction.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Compensation of each administrator or member of the faculty of the State-owned schools hereinafter set forth shall be payable in equal monthly or semi-monthly installments during the regular school term or year.

Section 2. Each person heretofore or hereafter appointed to a position as an administrator or member of the faculty of the Thaddeus Stevens Trade School and the Scotland School for Veterans' Children shall receive the following minimum salaries and yearly increments for services rendered during the regular school term or year:

(1) Teachers holding a standard certificate valid for the subjects or grades in which the teacher is giving instruction, minimum annual salary, two thousand four hundred dollars (\$2400); minimum annual service increment, two hundred dollars (\$200); minimum number of service increments, eight (8).

(2) Teachers holding a college certificate valid for the subjects or grades in which the teacher is giving instruction, minimum annual salary, two thousand four hundred dollars (\$2400); minimum annual service increment, two hundred dollars (\$200); minimum number of service increments, ten (10).

(3) Teachers holding a Master's Degree and who also hold a college certificate valid for the subjects or grades in which the teacher is giving instruction, minimum annual salary, two thousand four hundred dollars (\$2400); minimum annual service increment, two hundred dollars (\$200); minimum number of service increments, twelve (12).

(4) Teachers of applied arts and vocational subjects who hold a standard certificate shall be entitled to the same minimum salary and increments as teachers who hold a college certificate.

(5) Teachers of applied arts and vocational subjects who hold a standard certificate and have earned an additional thirty (30) semester hours of credit in professional education in the teaching field in which said teacher is engaged or related thereto shall be entitled to the same minimum salary and increments as teachers holding a master's degree.

(6) Supervisors who devote one-half or more of their time to supervision of instruction, holding a standard or college certificate, minimum annual salary, three thousand four hundred dollars (\$3400); minimum annual service increment, two hundred dollars (\$200); minimum number of service increments, eight (8).

(7) Supervisors who devote one-half or more of their time to supervision of instruction, holding a Master's Degree, minimum an-

nual salary, three thousand four hundred dollars (\$3400); minimum annual service increment, two hundred dollars (\$200); minimum number of service increments, ten (10).

(8) Principals who devote one-half or more of their time to supervision and administration and having less than twenty (20) teachers under their supervision, who hold a standard or college certificate, minimum annual salary, three thousand four hundred dollars (\$3400); minimum annual service increment, two hundred dollars (\$200); minimum number of service increments, eight (8).

(9) Such principals who hold a Master's Degree, minimum annual salary, three thousand four hundred dollars (\$3400); minimum annual service increment, two hundred dollars (\$200); minimum number of service increments, ten (10).

(10) Such principals having twenty (20) or more teachers under their supervision but less than forty (40) and who hold a standard or college certificate, minimum annual salary, three thousand eight hundred dollars (\$3800); minimum annual service increment, two hundred dollars (\$200); minimum number of service increments, eight (8).

(11) Such principals who hold a Master's Degree, minimum annual salary, three thousand eight hundred dollars (\$3800); minimum annual service increment, two hundred dollars (\$200); minimum number of service increments, ten (10).

(12) Such principals having forty (40) or more teachers under their supervision but less than sixty (60) and who hold a standard or college certificate, minimum annual salary, four thousand two hundred dollars (\$4200); minimum annual service increment, two hundred dollars (\$200); minimum number of service increments, eight (8).

(13) Such principals who hold a Master's Degree, minimum annual salary, four thousand two hundred dollars (\$4200); minimum annual service increment, two hundred dollars (\$200); minimum number of service increments, ten (10).

(14) Such principals having sixty (60) or more but less than eighty (80) teachers under their supervision and who hold a standard or college certificate, minimum annual salary, four thousand six hundred dollars (\$4600); minimum annual service increment, two hundred dollars (\$200); minimum number of service increments, eight (8).

(15) Such principals who hold a Master's Degree, minimum annual salary, four thousand six hundred (\$4600); minimum annual service increment, two hundred dollars (\$200); minimum number of service increments, ten (10).

(16) Such principals having eighty (80) or more teachers under their supervision and who hold a standard or college certificate, minimum annual salary, five thousand dollars (\$5000); minimum annual service increment, two hundred dollars (\$200); minimum number of service increments, eight (8).

(17) Such principals who hold a Master's Degree, minimum annual salary, five thousand dollars (\$5000); minimum annual service increment, two hundred dollars (\$200); minimum number of service increments, ten (10).

(18) Supervising principals having less than (20) teachers under their supervision and who hold a standard certificate, college certificate

or Master's Degree, minimum annual salary, three thousand eight hundred dollars (\$3800); minimum annual service increment, two hundred fifty dollars (\$250); minimum number of service increments, eight (8): Provided, That such supervising principals holding a Master's Degree shall receive thereafter two (2) additional service increments of two hundred dollars (\$200) each.

(19) Supervising principals having twenty (20) or more teachers under their supervision but less than forty (40) and who hold a standard certificate, college certificate or Master's Degree, minimum annual salary, four thousand two hundred dollars (\$4200); minimum annual service increment, two hundred fifty dollars (\$250); minimum number of service increments, eight (8): Provided, That such supervising principals holding a Master's Degree shall receive thereafter two (2) additional service increments of two hundred dollars (\$200) each.

(20) Supervising principals having forty (40) or more teachers under their supervision but less than sixty (60) who hold a standard certificate, college certificate or Master's Degree, minimum annual salary, four thousand six hundred dollars (\$4600); minimum annual service increment, two hundred fifty dollars (\$250); minimum number of service increments, eight (8): Provided, That such supervising principals holding a Master's Degree shall receive thereafter two (2) additional service increments of two hundred dollars (\$200) each.

(21) Supervising principals having sixty (60) or more but less than eighty (80) teachers under their supervision and who hold a standard certificate, college certificate or Master's Degree, minimum annual salary, five thousand dollars (\$5000); minimum annual service increment, two hundred fifty dollars (\$250); minimum number of service increments, eight (8): Provided, That such supervising principals holding a Master's Degree shall receive thereafter two (2) additional service increments of two hundred dollars (\$200) each.

(22) Supervising principals having eighty (80) or more teachers under their supervision and who hold a standard certificate or college certificate or Master's Degree, minimum annual salary, five thousand four hundred dollars (\$5400); minimum annual service increment, two hundred fifty dollars (\$250); minimum number of service increments, eight (8): Provided, That such supervising principals holding a Master's Degree shall receive thereafter two (2) additional service increments of two hundred dollars (\$200) each.

Section 3. Annual Employment.—Nothing contained herein shall be construed as prohibiting the payment of compensation beyond the salaries prescribed in this act, nor shall any part of this act be construed as prohibiting the employment of members of the administrative staffs of the State-owned schools hereinbefore mentioned on a twelve (12) month basis.

Section 4. Promotions.—Any faculty member or administrator who, during the term of his employment, shall have attained the qualification necessary for the next higher classification, as hereinbefore set forth, shall, commencing with the next succeeding regular school year, within the percentage limitation prescribed by this act, receive the compensation prescribed for such advanced classification, which shall

be at least two hundred dollars (\$200) in excess of the increment earned by him during the previous year.

Section 5. Administration of Salary Schedule.—The provisions of this act shall not be construed as authorizing any decrease in the salary paid any member of the faculty or administrator of any such State-owned school at the effective date of this act.

Each person employed as a member of the faculty or administrator of such State-owned school receiving compensation equivalent to or in excess of the minimum salary prescribed by the above schedule shall, for the school year 1953-1954, be raised to the next higher step on the schedule, unless such increase shall be less than one full increment, in which case he shall be raised to the next higher step on the applicable schedule. Each such person receiving compensation less than the minimum salary prescribed by the schedule shall, for the school year 1953-1954, be raised to such minimum salary, unless such increase shall be less than one full increment, in which case he shall receive an increase of the amount of one full increment. Salaries in excess of the maximum may be paid when approved by the board of trustees of said State-owned schools and the Superintendent of Public Instruction.

Classifications of any employe enumerated in the foregoing salary schedule and the qualifications of such employe must be approved by the Board of Trustees of the school and the Superintendent of Public Instruction to entitle any employe to the benefits of this act.

The Superintendent of Public Instruction shall be vested with the sole and final authority in interpreting the provisions of this act pertaining to the classification of any person covered thereby.

Section 6. Repeal.—All acts and parts of acts are hereby repealed in so far as they are inconsistent with the provisions of this act.

Commonwealth of Pennsylvania,
Governor's Office,
Harrisburg, August 26, 1953.

I file herewith, in the Office of the Secretary of the Commonwealth, with my objections, Senate Bill No. 69, Printer's No. 577, entitled "An act establishing minimum compensation and increments for administrators and members of the faculty of certain State-owned schools, and imposing duties on the Boards of Trustees of such schools and the Superintendent of Public Instruction."

This bill would establish minimum salaries only for the instructional staff of State-owned Thaddeus Stevens Trade School and Scotland School for Veterans' Children by prescribing a fixed salary schedule based on a series of classifications set forth in the bill.

The salaries of the rest of the staff of these two schools are not covered by this bill.

The salaries and classifications of not only the instructional staffs but also other employes of these two State-owned schools are fixed by the State Executive Board under the provisions of Section 709, of The Administrative Code of 1929, the Act of April 9, 1929, P. L. 177, as amended.

It is believed that it would be unwise to depart from this policy particularly when the departure affects only one type of employe.

Further such a bill would open the door for the instructional staff to receive increments each year which would increase salary to almost double the present amount.

The instructional staff as State employes could also make demand for their increase in salary when such is given to the State employes as a group.

On the instructional staff there are about 27 in the one school and 31 in the other school.

This bill provided 22 different classification groups with the last group being for supervising principals having 80 or more teachers under their supervision it seems to me that there is no need to legislate salary classification to twenty-two different types where it is absolutely impossible to have that many classifications of teachers under the present set up.

For these reasons, the bill is not approved.

JOHN S. FINE

No. 30

AN ACT

To further amend section 1 of the act, approved the third day of May, one thousand nine hundred fifteen (Pamphlet Laws 226), entitled "An act to establish and regulate the fees to be received and charged by the prothonotary of the courts of common pleas of this Commonwealth, in counties having over eight hundred thousand, and less than one million five hundred thousand, inhabitants, according to the last preceding United States census," by changing and further fixing the fees to be charged by the prothonotary.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 1 of the act, approved the third day of May, one thousand nine hundred fifteen (Pamphlet Laws 226), entitled "An act to establish and regulate the fees to be received and charged by the prothonotary of the courts of common pleas of this Commonwealth, in counties having over eight hundred thousand, and less than one million five hundred thousand, inhabitants, according to the last preceding United States census," as last amended by the act, approved the tenth day of August, one thousand nine hundred fifty-one (Pamphlet Laws 1221), is hereby further amended to read as follows:

Section 1. The fees to be received by the prothonotary of the courts of common pleas of this Commonwealth, in counties of the second class, shall be as follows:

Action in Assumpsit.

Entering, issuing notice of suit, reinstatement or reissue, and entering sheriff's return, one dollar and twenty-five cents.

All other docket entries before filing of pleas or entering judgment, [three] *four* dollars.

Filing of plea or entering judgment for one defendant, [one dollar] *two dollars*; for each additional defendant, twenty-five cents.

Action in Trespass.

Entering, issuing notice of suit or *capias ad respondendum*, or reinstatement or reissue, and entering sheriff's return, one dollar and twenty-five cents.

All other docket entries before filing pleas or entering judgment, [three] *four* dollars.

Filing of plea or entering judgment for one defendant, [one dollar] *two dollars*; for each additional defendant, twenty-five cents.

Appeals.

To Supreme and Superior Courts, and bond thereon, with justification, ten dollars; Supplemental Appeals to Supreme and Superior Courts, five dollars.

From alderman, justice of the peace, and county court, [three] *four* dollars.

Receiving and entering appeals from an award of arbitrators, taking recognizance and affidavit, [two] *three* dollars.

Receiving and entering appeal from board of viewers or assessors, two dollars and fifty cents.

Receiving and entering appeal from recount of election returns, two dollars.

Arbitrators.

Entering of rule to choose, fifty cents.

Entering of rule to refer, fifty cents.

Assignments.

Noting, docketing, and indexing, [one dollar] *two dollars* and fifty cents.

Attachment.

Attachment execution, domestic attachment, foreign attachment, and under the act of one thousand eight hundred and sixty-nine, filing, docketing, *and issuing writ, one dollar and twenty-five cents.

Subsequent docket entries prior to judgment, [three] *four* dollars.

Issuing attachment in contempt and motion thereof, each name, one dollar and twenty-five cents.

Issuing attachment for defaulting witness, fifty cents.

Issuing attachment, defaulting juror, fifty cents.

Bail.

Bail-piece, [one dollar] *two dollars*.

Bail for stay, entry and certificate, [one dollar] *two dollars*.

Receiving and care of cash deposit in lieu of surety, one per cent. on the first five hundred dollars, and one-half of one per cent. on the next one thousand dollars, and one-fourth of one per cent. on any additional amount.

Certificate.

Certifying record, and seal, [one dollar and fifty cents] *two dollars*.

Issuing certificate of appointment of commissioner, one dollar.

Issuing certificate of appointment of master, one dollar.

Issuing certificate of appointment of auditor, one dollar.

* "an" in original.

Issuing certificate of no appeal, one dollar and fifty cents.

Issuing certificate of no liens, for each five years or fraction thereof, for each name, [two] *three* dollars.

Issuing certificate of liens, for each five years or fraction thereof, for each name, [two] *three* dollars; and fifty cents additional for each lien unsatisfied.

Issuing certificate of no suits, for each five years or fraction thereof, for each name, [two] *three* dollars.

Certificate of commission to notary, alderman, and justice of the peace, one dollar and *fifty cents*.

Certified copy of order of court, for each page or fraction thereof, [fifty cents] *one dollar*.

Certificate and seal, [fifty cents] *one dollar*.

Issuing [certied] *certified* copy of docket entry, [one dollar and fifty cents] *two dollars*.

Entering certificate of judgment against boroughs, townships, and school districts, rendered by a justice or alderman, *fifty cents*.

Certiorari.

Issuing writ, and all proceedings thereon, [three dollars and seventy-five cents] *five dollars*.

Case Stated.

Filing and docketing, one dollar and twenty-five cents.

All subsequent entries, [three] *four* dollars.

Change of Name.

Filing and docketing petition, [three] *five* dollars and seventy-five cents.

Charter.

Filing corporate charter, petition for change of corporate name, or alteration or amendment of charter for merger, and all proceedings thereon, ten dollars.

Citation.

Filing and docketing petition, issuing writ, and return thereon, one dollar and twenty-five cents.

Docketing all further proceedings, [three] *four* dollars.

Commission.

Commission to take testimony, docketing and entering thereon, one dollar and twenty-five cents.

Commission de lunatico inquirendo, filing and docketing petition, one dollar and twenty-five cents.

Commission in partition and entering return, two dollars.

Condemnation of Property.

Filing and docketing petition, bond, order of court, and all subsequent docket entries, [four] *six* dollars and seventy-five cents.

Contract.

Filing and docketing building contract, [three] *four* dollars.

Costs and Fees.

Collection of costs and/or fees due to any person, five per cent. of the amount collected.

Depositions.

Entry of rule, one dollar.

Dissolution.

Of charter or partnership, filing and docketing all proceedings thereon, six dollars.

Divorce.

Filing and docketing complaint, issuing notice of suit, and entering sheriff's return, [four] *five* dollars and twenty-five cents.

Issuing reinstatements and entering sheriff's return, one dollar and twenty-five cents.

All subsequent docket entries, including first certified copy of decree, [three] *four* dollars and fifty cents. Subsequent certified copies of decree, two dollars each.

Election.

Reporting and certifying election of justice of the peace, and all county, State, and other officers whose election is required to be reported and certified to the Secretary of the Commonwealth, each officer certified, [fifty cents] *one dollar*,—

To be paid by the county.

Petition to open ballot-box, filing and docketing, and certified copy of order, one dollar and seventy-five cents.

Ejectment.

Issuing notice of suit and entering sheriff's return, one dollar and twenty-five cents.

Indexing, and all subsequent docket entries prior to plea, [three] *four* dollars and twenty-five cents.

Filing plea or entering judgment thereon, one dollar.

Equity.

Filing of bill, [two] *four* dollars and fifty cents, for each name indexed, twenty-five cents. All other docket entries before filing of pleas or entering of judgment, five dollars for each docket page or fraction thereof used.

Escheat.

Entry and docketing proceedings, five dollars.

Estrepeement.

Issuing of writ, one dollar and twenty-five cents.

Exemplification.

Record from other county, filing and entering the same, [two] *three* dollars and twenty-five cents.

Feme Sole Trader.

Petition, docketing and all services thereunder, [four] *five* dollars and seventy-five cents.

Fieri Facias.

Issuing and docketing writ and entering sheriff's return, [one dollar] *three dollars* and fifty cents.

Issuing and docketing testatum fieri facias and entering sheriff's return, [one dollar] *three dollars* and fifty cents.

Docketing and indexing testatum fieri facias from other county, [two] *four dollars* and twenty-five cents.

Financial Statement.

Filing and docketing, one dollar and seventy-five cents.

Guardian.

Filing and docketing petition, including certificate of appointment, [four] *five dollars* and seventy-five cents.

Filing of guardian account, three dollars.

Habeas Corpus.

Issuing writ, one dollar and seventy-five cents. Additional certified copies of order thereon, one dollar each.

Habere Facias.

Issuing writ, docketing, and entering sheriff's return, [one dollar] *three dollars* and fifty cents.

Habitual Drunkards.

Filing and docketing petition and all subsequent proceedings, four dollars and seventy-five cents.

Injunction.

Writ for preliminary injunction, [one dollar] *three dollars* and twenty-five cents.

Inquiry

Issuing of writ, one dollar and twenty-five cents.

Insolvency.

Filing petition, docketing, and all subsequent proceedings, four dollars and seventy-five cents.

Judgments.

Docketing and indexing confessed judgments, [one dollar] *two dollars* and seventy-five cents.

Entering satisfaction thereon, seventy-five cents.

Judges, Detailment of.

Entry of order and certificate, two dollars,—
To be paid by the county.

Levari Facias.

Issuing writ, docketing, and entering sheriff's return, [one dollar] *three dollars* and fifty cents.

Lien.

Release, postponement, restriction, satisfaction, or discontinuance, [seventy-five] *one dollar and fifty cents*.

Lists.

Preparing files and records for cases on trial list, each case, [twenty-five] *fifty* cents,—

To be paid by the county.

Preparing trial or argument list, each case, [twenty-five] *fifty* cents,—

To be paid by the county.

Lunacy.

Filing and docketing petition and all subsequent entries therein, [four] *five* dollars and seventy-five cents.

Mandamus.

Filing, docketing petition, issuing notice of suit, and entering return, and all other services, [four] *five* dollars and seventy-five cents.

Mechanics' Lien.

Entering, docketing, and indexing, [three] *four* dollars.

Mortgages, Satisfaction Thereof.

Filing, docketing petition, and all subsequent proceedings, including certificate, [four] *five* dollars and seventy-five cents.

Municipal Lien.

Entering, docketing, and indexing, where the claim is for one year and is directed to be indexed against one name only, two dollars. For each additional year included, one dollar; for each additional defendant named, twenty-five cents.

Oaths of Office.

Filing and docketing, one dollar and seventy-five cents.

Overseers of Election.

Filing petition for appointment, one dollar and twenty-five cents. Each certificate, fifty cents.

Party Name.

Filing, docketing, and certificate for preemption of party name, [three] *four* dollars and seventy-five cents.

Perpetuating Testimony.

Filing and docketing petition, [one dollar] *two* dollars and twenty-five cents. Entering order of court thereon, and recording the same, three dollars.

Partition.

Filing, docketing, and issuing writ of summons, and entering sheriff's returns, one dollar and twenty-five cents.

Subsequent docket entries prior to judgment, [three] *four* dollars.

Entry of judgment therein, one dollar; for each indexed name, twenty-five cents.

Writ de partitione faciundo, one dollar and twenty-five cents.

Petition.

Filing petition for oral examination as to title of property, [one dollar] *two dollars*.

Filing and docketing any petition not herein specifically provided for, [three] *four* dollars.

Possession.

Entry, issuing writ, and return thereon, [one dollar] *two dollars* and seventy-five cents.

Quo Warranto.

Filing and docketing petition, issuing notice of suit, and all further proceedings thereon, [two] *three* dollars and fifty cents.

Receipt.

Entering or issuing, seventy-five cents.

Registration and Certificate.

Partnerships, physicians, veterinarians, dentists, and stallions, one dollar.

Remittitur.

Entering the same from Supreme or Superior Courts, two dollars.

Replevin.

Entry, issuing notice of suit, and all services prior to judgment, [four] *five* dollars and twenty-five cents.

Issuing writ of retorno habendo, [one dollar] *two dollars* and fifty cents.

Reports.

Report to county commissioners of every judgment or lien, assignment or satisfaction thereof, each, [ten] *twenty-five* cents.

Not to exceed [six] *twelve* hundred dollars per annum.

Entering report of treasurer, and acknowledging treasurer's deed, two dollars and fifty cents.

School Auditor.

Docketing order of appointment, one dollar and twenty-five cents.

Each certificate issued, fifty cents.

Entry of auditors' official oath, fifty cents.

Entry of report of school auditors' docket, for each page of report, thirty cents.

Entering and docketing of school auditors' report, two dollars.

School Directors.

Docketing order of appointment, and certificates thereof, in districts of the first class, two dollars.

Scire Facias.

Sur mortgage, filing, docketing, issuing writ, certificate to recorder, entering on scire facias, and entering sheriff's return, [one dollar] *three dollars* and seventy-five cents.

Alias writ, [one dollar and twenty-five cents] *two dollars*.

All other writs of scire facias and alias writs, filing, docketing, issuing, indexing, and entering sheriff's return, [one dollar] *two dollars* and twenty-five cents.

Suggestion of Freehold.

Entry and certificate, one dollar.

Subpoena.

Issuing of, one dollar.

Tax Lien.

Filing and entering, where tax is for one year and one defendant only is named, one dollar. For each additional year included, one dollar. For each additional defendant named, twenty-five cents.

Satisfaction of each, one dollar.

Filing and entering where special dockets are required, and indexing on judgment index, where tax is for one year and is directed to be indexed against one defendant only, two dollars. For each additional year included, one dollar. For each additional defendant named, twenty-five cents.

Filing and entering suggestion and averment of unpaid tax or municipal claim, and indexing judgment docket, where tax or claim is for one year and is directed to be indexed against one name only, one dollar. For each additional year included, one dollar. For each additional name indexed, twenty-five cents.

Preparing suggestions and averments, each, twenty-five cents.

Furnishing list of unsatisfied tax liens, each item shown, twenty-five cents.

Transcribing.

Any paper or record, per page or fraction thereof, [fifty cents] *one dollar*.

Transcript.

Docketing and indexing transcript from alderman, justice of the peace, and county court, three dollars.

Venditioni Exponas.

Issuing writ and entering sheriff's return, [one dollar] *two dollars* and fifty cents.

Verdict.

Verdict fee and indexing in judgment docket, [four] *five dollars*.

Viewers.

Docketing petition, [one dollar] *two dollars* and twenty-five cents. Issuing precept, one dollar and twenty-five cents.

All subsequent docket entries, three dollars.

Certified copy of report, three dollars.

Workhouse Release.

Making out petition and certificate, one dollar.

The fees hereinbefore enumerated shall be exclusive of any State tax now levied or that may hereafter be levied.

Section 2. The provisions of this act shall become effective immediately upon final enactment.

Commonwealth of Pennsylvania,
Governor's Office,
Harrisburg, August 26, 1953.

I file herewith, in the Office of the Secretary of the Commonwealth, with my objections, Senate Bill No. 112, Printer's No. 15, entitled "An act to further amend section 1 of the act, approved the third day of May, one thousand nine hundred fifteen (Pamphlet Laws 226), entitled 'An act to establish and regulate the fees to be received and charged by the prothonotary of the courts of common pleas of this Commonwealth, in counties having over eight hundred thousand, and less than one million five hundred thousand, inhabitants, according to the last preceding United States census,' by changing and further fixing the fees to be charged by the prothonotary."

This bill would increase the fees to be charged by the prothonotary of the courts of common pleas of counties of the second class.

I am reliably informed that the receipts of the prothonotary were much greater than the expenditures and that no increase is needed to efficiently operate the office of prothonotary in counties of the second class. Justice is denied when the cost of litigation becomes prohibitive.

The Allegheny County Bar Association is opposed to the approval of this bill.

For these reasons, the bill is not approved.

JOHN S. FINE

No. 31

AN ACT

Directing the Department of Forests and Waters to build a replica of Ole Bull's Castle on its original site in the Susquehanna State Forest to commemorate the settlement of the colony fostered by the famous Norwegian musician.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The *Department of Forests and Waters is hereby directed to build a replica of Ole Bull's Castle at Ole Bull Park in Stewardson Township, Potter County, Pennsylvania, located in Susquehanna State Forest, to commemorate the settlement, one hundred years ago, of the colony fostered by the famous Norwegian musician. Construction of the castle shall be made upon the site of the original structure from plans which have been located in the possession of descendants of Ole Bull. The cost of the materials and construction shall be paid out of appropriations made to the Department of Forests and Waters for park purposes.

Section 2. The provisions of this act shall become effective immediately upon final enactment.

* "Departments" in original.

Commonwealth of Pennsylvania,
Governor's Office,
Harrisburg, August 26, 1953.

I file herewith, in the Office of the Secretary of the Commonwealth, with my objections, Senate Bill No. 545, Printer's No. 218, entitled "An act directing the Department of Forests and Waters to build a replica of Ole Bull's Castle on its original site in the Susquehanna State Forest to commemorate the settlement of the colony fostered by the famous Norwegian musician."

The bill does not attempt to make any appropriation; does not state the approximate cost of the replica, but provides that it shall be paid out of appropriation made to the Department of Forests and Waters for park purposes.

The bill is so completely indefinite that the entire park system may suffer by reason of the mandatory feature of this bill.

For these reasons, the bill is not approved.

JOHN S. FINE

No. 32

AN ACT

To further amend section 9 of the act, approved the thirtieth day of March, one thousand nine hundred seventeen (Pamphlet Laws 21), entitled "An act defining optometry; and relating to the right to practice optometry in the Commonwealth of Pennsylvania, and making certain exceptions; and providing a Board of Optometrical Education, Examination, and Licensure, and means and methods whereby the right to practice optometry may be obtained; and providing for the means to carry out the provisions of this act; and providing for revocation or suspension of licenses given by said board; and providing penalties for violations thereof; and repealing all acts or parts of acts inconsistent therewith," by specifying further reasons for the refusal, cancellation, revocation or suspension of licenses by the Board of Optometrical Education, Examination and Licensure; and providing for the making, adopting and enforcing of rules by the State Board of Optometrical Examiners.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 9 of the act, approved the thirtieth day of March, one thousand nine hundred seventeen (Pamphlet Laws 21), entitled "An act defining optometry; and relating to the right to practice optometry in the Commonwealth of Pennsylvania, and making certain exceptions; and providing a Board of Optometrical Education, Examination, and Licensure, and means and methods whereby the right to practice optometry may be obtained; and providing for the means to carry out the provisions of this act; and providing for revocation or suspension of licenses given by said board, and providing penalties for violations thereof; and repealing all acts or parts of acts inconsistent therewith," as last amended by the act, approved the twenty-fifth day of May, one thousand nine hundred thirty-seven (Pamphlet Laws 795), is hereby further amended to read as follows:

Section 9. (a) The State Board of Optometrical Examiners shall refuse to grant a certificate of licensure to any applicant, and may cancel, revoke, or suspend the operation of any certificate by it

granted, for any or all of the following reasons [; to wit,—the]: (1) peddling from house to house or person to person, or (2) the establishment of temporary offices, contrary to the provisions of this act, or (3) the use of misleading advertising, or (4) gross incompetency, or (5) the obtaining of money by fraud, or (6) misrepresentation of the optometrical profession in which untruthful statements are made, or (7) the failure to deliver the certificates provided for in section six of this act, or (8) the conviction of a crime involving moral turpitude, or (9) habitual intemperance in the use of ardent spirits or stimulants, narcotics, or any other substance which impairs the intellect and judgment to such an extent as to incapacitate for the performance of duties of an optometrist, or (10) the advertising of prices for professional services or glasses or *ophthalmic materials* or other appurtenances used in the practice of the profession of optometry, or (11) *upon satisfactory proof of grossly unethical practice, or of conduct not becoming a professional man, or of acts tending to lower the professional standards of the practice of optometry or partaking of those of the market place, or of any form of pretense which might induce citizens to become a prey to professional exploitation.* The certificate of licensure of any person convicted of a violation of section two of this act shall be ipso facto revoked. *The board may adopt, promulgate and enforce such rules and regulations as may be deemed necessary by the board and proper to carry into effect the provisions of this act.*

(b) Any person who is the holder of a certificate of licensure, or who is an applicant for examination for a certificate of licensure, against whom is preferred any charge, shall be furnished by the board with a copy of the complaint, and shall have a hearing before the board, at which hearing, he may be represented by counsel. At such hearing witnesses may be examined for and against the accused respecting the said charges, which examination shall be conducted in the manner usually followed in the taking of testimony before commissions in this Commonwealth. The suspension of a certificate of licensure, by reason of the use of stimulants or narcotics, may be revoked when the holder thereof shall have been adjudged by the said board to be cured and capable of practicing optometry. The revocation or suspension for any other cause of a certificate of licensure may be removed at such time as it shall appear to the board to be just and proper to do so.

Commonwealth of Pennsylvania,
Governor's Office,
Harrisburg, August 26, 1953.

I file herewith, in the Office of the Secretary of the Commonwealth, with my objections, House Bill No. 117, Printer's No. 523, entitled "An act to further amend section 9 of the act, approved the thirtieth day of March, one thousand nine hundred seventeen (Pamphlet Laws 21), entitled 'An act defining optometry; and relating to the right to practice optometry in the Commonwealth of Pennsylvania, and making certain exceptions; and providing a Board of Optometrical Education, Examination, and Licensure, and means and methods whereby the right to practice optometry may be obtained, and providing for the means to carry out the provisions of this act; and providing for revo-

cation or suspension of licenses given by said board, and providing penalties for violations thereof; and repealing all acts or parts of acts inconsistent therewith,' by specifying further reasons for the refusal, cancellation, revocation or suspension of licenses by the Board of Optometrical Education, Examination and Licensure; and providing for the making, adopting and enforcing of rules by the State Board of Optometrical Examiners."

This bill proposes to amend Section 9 of the Optometry Law, the Act of March 30, 1917, P. L. 21, as amended, by providing that the Board may adopt and promulgate rules and regulations, and further specifying "grossly unethical conduct" as a reason for the refusal, revocation or suspension of a license.

Under present law the State Board of Optometrical Examiners is directed to refuse to grant a license or cancel, revoke or suspend a license already granted, for certain specific reasons. This bill would empower the board to so act, not only because of one or more of these specific reasons, but "upon satisfactory proof of grossly unethical practice or of conduct not becoming a professional man, or of acts tending to lower the professional standards of the practice of optometry, or partaking of those of the market place or of any form of pretense which might induce citizens to become a prey to professional exploitation."

These are general terms which would appear to encompass all of the reasons for refusal, revocation or suspension of a license already specified in the law. As such they add nothing to the powers already possessed by the board. However, being general terms, if adopted into law, no certainty would exist as to what might be held by the board to constitute the proscribed activity or conduct.

I have been advised by the Attorney General that such an enlargement of the powers of the board without providing adequate standards for its exercise might be held to be unconstitutional.

While I have the highest regard for the members of the State Board of Optometrical Examiners and the other professional licensing boards, I do not feel that circumstances demand that they be given such sweeping powers expressed in terms of generality.

The practice of optometry in Pennsylvania is being conducted on a high standard of professional ethics. Its practitioners can be justly proud of their profession. I can perceive no reason why its board of examiners need be granted the broad, discretionary powers this bill would give it, particularly in view of the possibility that such a general grant of power might be unconstitutional.

For the foregoing reasons, the bill is not approved.

JOHN S. FINE

No. 33

AN ACT

To further amend section two thousand four hundred nine of the act, approved the ninth day of April, one thousand nine hundred twenty-nine (Pamphlet Laws 177), entitled "An act providing for and reorganizing the conduct of the executive and administrative work of the Commonwealth by the Executive Department thereof and the administrative departments, boards, commissions, and officers thereof, including the boards of trustees of State Normal Schools,

or Teachers Colleges; abolishing, creating, reorganizing or authorizing the reorganization of certain administrative departments, boards, and commissions; defining the powers and duties of the Governor and other executive and administrative officers, and of the several administrative departments, boards, commissions, and officers; fixing the salaries of the Governor, Lieutenant Governor, and certain other executive and administrative officers; providing for the appointment of certain administrative officers, and of all deputies and other assistants and employes in certain departments, boards, and commissions; and prescribing the manner in which the number and compensation of the deputies and all other assistants and employes of certain departments, boards and commissions shall be determined," by increasing from less than fifty dollars to less than three hundred dollars the cost of articles the Department of Property and Supplies may purchase at its discretion, under certain conditions, in the open market.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The second to last paragraph of section two thousand four hundred nine of the act, approved the ninth day of April, one thousand nine hundred twenty-nine (Pamphlet Laws 177), entitled "An act providing for and reorganizing the conduct of the executive and administrative work of the Commonwealth by the Executive Department thereof and the administrative departments, boards, commissions, and officers thereof, including the boards of trustees of State Normal Schools, or Teachers Colleges; abolishing, creating, reorganizing or authorizing the reorganization of certain administrative departments, boards, and commissions; defining the powers and duties of the Governor and other executive and administrative officers, and of the several administrative departments, boards, commissions, and officers; fixing the salaries of the Governor, Lieutenant Governor, and certain other executive and administrative officers; providing for the appointment of certain administrative officers, and of all deputies and other assistants and employes in certain departments, boards, and commissions; and prescribing the manner in which the number and compensation of the deputies and all other assistants and employes of certain departments, boards and commissions shall be determined," as last amended by the act, approved the twenty-first day of June, one thousand nine hundred thirty-seven (Pamphlet Laws 1865), is hereby further amended to read as follows:

Section 2409. Method of Awarding Contracts for Stationery, Paper, Fuel, Repairs, Furnishings and Supplies.—

* * * * *

In the event that requisitions are made upon the department for any article of furniture, furnishing, stationery, supplies, fuel, or any other matter or thing, the want of which was not anticipated at the time of the making of the schedules, the department may, in its discretion, invite proposals from at least two responsible bidders, unless the article can be procured from only one source, and, when one proposal shall be invited, such proposal or proposals, together with such requisition or requisitions, shall be submitted to the Board of Commissioners of Public Grounds and Buildings for approval or disapproval: Provided, however, That the department may, in its discretion, purchase in the open market, without inviting any proposal, any such article costing less than [fifty] *three hundred* dollars, but all such purchases shall be reported to the Board of Commissioners of Public Grounds and Buildings at its next meeting.

Whenever any contract for the furnishing of materials for use in the construction or maintenance of highways exceeds five hundred dollars (\$500.00) in amount, and includes the performance of labor or the use of other materials in the delivery of such material to the site of the work or in the incorporation thereof into the completed structure, the Department of Property and Supplies shall require the contractor to furnish an additional bond, conditioned for the payment of labor and materials in the same manner as is required by paragraph (h) of section two thousand four hundred and eight of the Administrative Code, to which this act is an amendment.

Commonwealth of Pennsylvania,
Governor's Office,
Harrisburg, August 26, 1953.

I file herewith, in the Office of the Secretary of the Commonwealth, with my objections, Senate Bill No. 774, Printer's No. 455, entitled "An act to further amend section two thousand four hundred nine of the act, approved the ninth day of April, one thousand nine hundred twenty-nine (Pamphlet Laws 177), entitled 'An act providing for and reorganizing the conduct of the executive and administrative work of the Commonwealth by the Executive Department thereof and the administrative departments, boards, commissions, and officers thereof, including the boards of trustees of State Normal Schools, or Teachers Colleges; abolishing, creating, reorganizing or authorizing the reorganization of certain administrative departments, boards, and commissions; defining the powers and duties of the Governor and other executive and administrative officers, and of the several administrative departments, boards, commissions, and officers; fixing the salaries of the Governor, Lieutenant Governor, and certain other executive and administrative officers; providing for the appointment of certain administrative officers, and of all deputies and other assistants and employes in certain departments, boards, and commissions; and prescribing the manner in which the number and compensation of the deputies and all other assistants and employes of certain departments, boards and commissions shall be determined,' by increasing from less than fifty dollars to less than three hundred dollars the cost of articles the Department of Property and Supplies may purchase at its discretion, under certain conditions, in the open market."

This bill would increase from less than \$50 to less than \$300 the cost of articles the Department of Property and Supplies may purchase at its discretion without any proposal for competitive bids. In 43 Am. Jur. Section 26 at page 767 it is said:

"The purposes of the provisions so generally found in Constitutions, statutes, city charters, and ordinances requiring that contracts with public authorities be let only after competitive bidding are to secure economy in the construction of public works and the expenditures of public funds for materials and supplies needed by public bodies, to protect the public from collusive contracts, to prevent favoritism, fraud, extravagance, and improvidence in the procurement of these things for the use of the state and its local self-governing

subdivisions, and to promote actual, honest, and effective competition to the end that each proposal or bid received and considered for the construction of a public improvement, the supplying of materials for public use, etc., may be in competition with all other bids upon the same basis, so that all such public contracts may be secured at the lowest cost to taxpayers. * * *

“Since they are based upon public economy and are of great importance to the taxpayers, laws requiring competitive bidding as a condition precedent to the letting of public contracts ought not to be frittered away by exceptions, * * *”

Furthermore, the recommendations of the State Government Survey Committee with regard to the creation of an Advisory and Review Committee were not enacted into law so that a supplier does not have the remedy proposed by the Survey Committee.

For these reasons, the bill is not approved.

JOHN S. FINE

No. 34

AN ACT

To amend section 1 of the act, approved the eighteenth day of June, one thousand nine hundred forty-one (Pamphlet Laws 131), entitled “An act requiring cities of the second class A having fire departments to allow members of said fire departments twenty-four consecutive hours of rest each week and fourteen days vacation with pay each year, except in emergency cases,” by further regulating minimum vacation periods.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 1 of the act, approved the eighteenth day of June, one thousand nine hundred forty-one (Pamphlet Laws 131), entitled “An act requiring cities of the second class A having fire departments to allow members of said fire departments twenty-four consecutive hours of rest each week and fourteen days vacation with pay each year, except in emergency cases,” is hereby amended to read as follows:

Section 1. All cities of the second class A having fire departments shall allow every member of such fire departments to have at least twenty-four consecutive hours of rest in every calendar week, exclusive of the time when the change of shifts occurs, except in emergency cases for the suppression of riots or tumults or the preservation of the public peace in times of war, riot, conflagration, public celebrations, and to have an annual vacation of not less than fourteen *working* days without the diminution of the salary or compensation fixed by ordinance or statute.

Section 2. The provisions of this act shall become effective on the first day of January, one thousand nine hundred fifty-four.

Commonwealth of Pennsylvania,
Governor's Office,
Harrisburg, August 26, 1953.

I file herewith, in the Office of the Secretary of the Commonwealth, with my objections, House Bill No. 1204, Printer's No. 735, entitled "An act to amend section 1 of the act, approved the eighteenth day of June, one thousand nine hundred forty-one (Pamphlet Laws 131), entitled 'An act requiring cities of the second class A having fire departments to allow members of said fire departments twenty-four consecutive hours of rest each week and fourteen days vacation with pay each year, except in emergency cases,' by further regulating minimum vacation periods."

This bill amends the Act of June 18, 1941, P. L. 131, by providing that members of fire departments in cities of the second class A who under present laws are entitled to not less than fourteen days vacation each year shall hereafter be entitled to not less than fourteen *working* days vacation each year except in emergency cases.

Whether vacation periods of municipal employees should be two weeks or more than two weeks is, we think, a matter for local determination.

For this reason, the bill is not approved.

JOHN S. FINE

No. 35

AN ACT

To amend the title and the act, approved the twenty-fifth day of April, one thousand nine hundred thirty-five (Pamphlet Laws 82), entitled "An act requiring certain cities to allow members of the fire departments twenty-four consecutive hours of rest each week and fourteen days vacation each year, except in emergency cases," by changing the provision thereof relating to annual vacations.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The title and section one of the act, approved the twenty-fifth day of April, one thousand nine hundred thirty-five (Pamphlet Laws 82), entitled "An act requiring certain cities to allow members of the fire departments twenty-four consecutive hours of rest each week and fourteen days vacation each year, except in emergency cases," which was repealed as to cities of the third class by the act, approved the sixteenth day of May, one thousand nine hundred thirty-seven (Pamphlet Laws 103), are hereby amended to read as follows:

An Act

Requiring [certain cities] *cities of the second class* to allow members of the fire departments twenty-four consecutive hours of rest each week and fourteen *working* days vacation each year, except in emergency cases.

Section 1. Be it enacted, &c., That any city [, except cities of first class and second class A,] of the *second class* having fire departments shall allow and permit every member of such fire departments to have at least twenty-four consecutive hours of rest in every calendar week, except in emergency cases for the suppression of riots or tumults, or the preservation of the public peace in times of war, riot, conflagration, or public celebrations, and to have an annual vacation of not less than fourteen *working* days without diminution of the salary or compensation fixed by ordinance or resolution of such city.

Section 2. The provisions of this act shall become effective on the first day of January, one thousand nine hundred fifty-four.

Commonwealth of Pennsylvania,
Governor's Office,
Harrisburg, August 26, 1953.

I file herewith, in the Office of the Secretary of the Commonwealth, with my objections, House Bill No. 1384, Printer's No. 738, entitled "An act to amend the title and the act, approved the twenty-fifth day of April, one thousand nine hundred thirty-five (Pamphlet Laws 82), entitled 'An act requiring certain cities to allow members of the fire departments twenty-four consecutive hours of rest each week and fourteen days vacation each year, except in emergency cases,' by changing the provision thereof relating to annual vacations."

This bill amends the Act of April 25, 1935, P. L. 82, by providing that members of fire departments in cities of the second class who under present law are entitled to not less than fourteen days vacation each year shall hereafter be entitled to not less than fourteen *working* days vacation each year, except in emergency cases.

Whether vacation periods of municipal employees should be two weeks or more than two weeks is, we think, a matter for local determination.

For this reason, the bill is not approved.

JOHN S. FINE