

11:22-7

11:22-7 - Legislative Research Librarian  
Jan 22 1959

MEMORANDUM

TO: ~~Hon. J. Edgar Hoover, Director, Federal Bureau of Investigation~~

FROM: (Mrs.) Herta Prager, Legislative Research Librarian

DATE: January 22, 1959

SUBJECT: Legislative history of laws referring to residence requirements of public officers.

RS11:22-7  
RS40:11-1  
RS40:46-14  
RS11:23-5  
RS40:47-5  
KS11:21-4  
BS52:14-7  
BS40:48-1 and 2  
RS11:24-1

We are enclosing the histories of the above sections together with copies of the following bills:

- 1876 Senate 10
- 1911 Senate 123 Assembly Amendments to S 123.
- 1924 Assembly 172 Committee Substitute for A 172.
- 1935 Assembly 21 Senate Amendments to A 21.

In each case we started out with the present law and worked back through all amendments. In most cases there was very little explanatory material. Some conclusions can be drawn from amendments of the bills during passage.

We hope this material serves your needs. If we can be of any further help, please let us know.

Legislative Research Librarian

1937 R.S. 11:21-4 - Appointments, reductions and dismissals made in accordance with subtitle.

The 1937 Revision made this section applicable to "any county, municipality and school district" while before it applied to "the civil service of this State" and to "any municipality of this state" which had adopted the civil service law.

No comment in the 1934 Report of the Revision Committee.

1908 The law was enacted originally as L. 1908, Ch. 156, Section 1, S. 311, Senator Ackerman.

Senate 311 was a compromise bill for Senate 6, the bill originally introduced. This section was taken unchanged from Senate 6. Neither bill had a statement.

1937 R.S. 11:22-7 - Applicants limited to residents of county, municipality and school districts.

Revision of 1937 added to the section the words "school district" followed by the word "judicial" in all three occurrences and changed the wording of "those entering the examination or seeking appointment" to "applicants".

These changes appear in the earliest available Report of the Commission on Revision and Consolidation of Public Statutes, 1934, without comment.

1930 Earlier the Section was amended by L. 1930, Ch. 56, § 42, Senator Chandless. This bill had the following

Statement

The purpose of this act is to limit the eligibility of Civil Service appointees to the particular district which pays the salaries. The present law provides this as to counties and municipalities but does not limit it as to districts.

It was amended in the Senate to add "judicial" in the sentence "where the service is to be rendered in a particular county or municipality or any judicial district".

1924 The law was originally enacted by L. 1924, Ch. 134, A 172, Assemblyman Comby. A 172 with statement is enclosed, also Assembly Committee Substitute 172 with statement. Notice that in the ACS the phrase "the Civil Service Commission may limit" was changed to "the Civil Service Commission shall limit".

1937 R.S. 11:23-5 - Examinations free; non-residents admitted.

The wording of this section was slightly changed in the revision, without, however, changing the contents. There was no comment in the Committee report.

1911 Before 1937, the law was amended by L. 1911, Ch. 148, § 123, Mr. Ackerman. The amendment provided for positions requiring special training.

The bill and amendment are enclosed. There are no statements.

1908 The original bill was L. 1908, Ch. 156, Section 18, Senate Bill by Mr. Ackerman.

Report see 11-1-76

The bill was introduced without statement; however, it appears from the Senate Journal page 565 that this bill was a compromise bill introduced by the majority of the committee appointed to study the "Civil Service Bill" § 6 of the same year.

Comparing sections 18 of the two bills, we find that the original bill had the following phrase which was left out in the compromise bill. After the words "...health, habits and moral character;" it continued:

Provided, however, that the commission may admit to any examination persons who are not citizens of the State if in its judgment a sufficient number of qualified applicants who are citizens of the State cannot be secured.

1937 R.S. 11:24-1<sup>v</sup> - Preparation and suggestion by commission for counties, municipalities and school-districts generally; information furnished.

The 1937 revision changes the wording slightly, makes the section applicable to "school districts" in addition to counties and municipalities. It left out part of the provisions of the 1918 Statute requiring detailed specifications.

There is no comment in the 1934 Report.

1918 The section was amended earlier in L. 1918, Chapter 54 Assembly 16, Mr. Morgan.

The bill passed the legislature unamended. It had the following

Statement

This bill provides for a properly classified standardization plan for civil service officers and employees.

1908 The original Civil Service Bill, L. 1908, Chapter 156, did not provide for classification standards.

1953 RS 40:11-1 Laws 1953, Ch. 37 Residence of county and municipal officers; office not transferable; penalty; ouster. Senate 34, Clapp.

This is one of the bills introduced to make the title conform to the Revision of Title 2A. There is no statement. The fourth paragraph provides for the new type proceeding.

1937 RS 40:11-1 The 1937 Revision changes the prior wording without changing the contents except for the last sentence of the prior law which is omitted in the 1957 version: "and provided further, that nothing herein contained shall require any town or township attorney or counsel to reside within such town or township." No comments in the 1934 Report of the Revision.

1876 L. 1876, Ch. 83, Senate 10

Senate 10 was introduced without a statement. We know from the journal that it was amended at least once in the Senate. The amendments added on line 21 after "duties of such office" the words "in cases where scientific engineering skill is necessary to the performance of the duties thereof;" and on line 26 omitted the wording from "person or persons desiring to sue or prosecute the same," and added the whole paragraph starting with "any officer of the state, if the offending officer, etc."

We are enclosing Senate 10 for your information.

1846 The 1876 law was based on an act passed in connection with the General Revision of 1846. (Sen. 42). Revised Statutes 1846, Ch. 21. There are no comments on the Revision, it passed unamended.

1778 However, the gist of the statute was taken out of an earlier law passed on Oct. 8, 1778 and which appears in Revision of 1820, Pennington, page 52.

1949 R.S. 40:46-14 ✓ Vacancies; how caused; filling. L. 1949,  
Ch. 62 S. 180

The bill added health officers to the offices who need not be residents. There was no explanatory statement.

1937 R.S. 40:46-14 was taken practically unchanged from the earlier law. The slight modifications are only in style.

1920 Laws 1920, Ch. 115, A263. This bill added municipal engineers to the officers who need not be residents.

#### STATEMENT

This act is introduced in order that the office of engineer of a municipality may not be deemed vacant on account of nonresidence of such engineer. This may have been the original intention of the framers of the act, but as it is printed such intention is questionable.

1917 Laws 1917, Ch. 152, Art. 37, Sec. 18, A592

This is the original enactment. It is part of a general Act Concerning Municipalities. The bill was amended during passage but section 18 was not changed. There is no statement.

The report<sup>\*</sup> of the Commission which worked on this revision of the Municipal Law does not shed any light on this Section.

\* 974.90

M 966  
1917

1937 RS 40:47-5 Term.

The revision of 1937 combines two prior sections, one having to do with police and the other with fire departments. There are no other substantial changes.

1935 Laws 1935, Ch. 244, Assembly 21

This bill made the section applicable to "paid members" of "part-paid fire departments". It has a statement and was amended in Assembly. Original bill and amendment are enclosed.

1917 Laws 1917, Ch. 152, Art. 16, Sec. 3, A 592

These are the original enactments. They are part of a General Act Concerning Municipalities. The bill was amended during passage but the sections were not changed.

There is no statement.

The report of the Commission which worked on the revision of the Municipal law does not shed any light on the sections.

1937 RS40:48-1 Ordinances; general purpose - - - -

Officers and employees; duties, terms and salaries.

Revised statutes of 1937 re-enacts the prior law, except for minor changes.

1917 L. 1917, Ch. 152, Art. 14, Sect. 1, A 592

This is the original enactment, part of a General Act concerning municipalities. The amendment during passage did not affect the section and the report of the Committee did not refer to it.

The purpose of the committee's work was stated in the preamble as follows:

"Whereas, It is desired that the largest possible measure of home rule, consistent with constitutional limitations, should be granted to the municipalities of the State, so that each of them, in response to the sentiment and desire of its people, may from time to time deal with every matter of local concern, including the ownership and operation of such public utilities as any municipalities may see fit to own or operate; and

"Whereas, The revision and complication of the present laws relating to cities and other municipalities, and the delegation of more power to cities and other municipalities without sweeping away those fundamental principles and policies generally accepted and recognized throughout this State as wise and beneficent, would remove much of the present confusion and uncertainty and would shorten the sessions of the Legislature."

Report of the Commission to Revise and Codify the Statutes of this State, page 8.

1937 RS 40:48-2 Other necessary and proper ordinances was derived from L. 1917, Ch. 152, Art. 14, Sect. 2 and the same information applies as for RS40:48-1 above.

1953 RS 52:14-7, L. 1953, Ch. 49, p. 3, Senate 45, Clapp.

State officers must reside in state; transfer, etc. of office; penalty; engineering skill; ouster from office.

This is one of the bills introduced to make the title conform to the Revision of Title 2A. There is no statement. The fourth section changes the form of the proceedings.

1937 RS 52:14-7 The 1937 Revision changed the wording of the earlier law and separated the provisions as to state officers from the one relating to county, municipality, etc. The gist of the law is the same. No comments in the 1934 Report on the Revision.

1876 L. 1876, Ch. 83, Senate 10

Senate 10 was introduced without a statement. We know from the journal that it was amended at least once in the Senate. The amendments added on line 21 after "duties of such office" the words "in cases where scientific engineering skill is necessary to the performance of the duties thereof;" and on line 26 omitted the wording from "person or persons desiring to sue or prosecute the same," and added the whole paragraph starting with "any officer of the state, if the offending officer, etc."

We are enclosing Senate 10 for your information.

1846 The 1876 law was based on an act passed in connection with the General Revision of 1846. (Sen. 42). Revised Statutes 1846, Ch. 21. There are no comments on the Revision, it passed unamended.

1778 However, the gist of the statute was taken out of an earlier law passed on Oct. 8, 1778 and which appears in Revision of 1820, Pennington, page 52.

SENATE, No. 10.

STATE OF NEW JERSEY.

A SUPPLEMENT to an act entitled "An act relative to offices, commissions and resignations," approved April sixteen, eighteen hundred and forty-six, (revision).

1     1. BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey,*  
2 That the first section of the act to which this is a supplement, being in the  
3 following words, viz: "Each and every person holding or who shall hereafter  
4 hold any office in this state under the authority thereof, shall reside within  
5 this state and execute such office; and also, that every person holding an  
6 office, the authority and duties of which relate to a county only, shall reside  
7 within such county; and if any person holding or who shall hereafter hold any  
8 office as aforesaid, shall at any time presume to let, farm out or transfer such  
9 office, or any part thereof, to any person or persons whatsoever he shall for  
10 such offence forfeit the sum of fifteen hundred dollars, to be recovered  
11 with full costs of suit, by any person who will sue for the same, one half to  
12 the prosecutor, and the other half to the Treasurer, for the use of the  
13 state," be amended by adding the following words, to come in after  
14 the word "county" where it last occurs in said section, "and also  
15 that every person holding an office, the authority and duties of which  
16 relate to a city or township, shall reside within such city or township;" and  
17 that said section be further amended by adding the following proviso, to come  
18 in at the end of the section: "*provided*, that it shall not be lawful for any per-  
19 son to be appointed to, or hold any office in this state, or any county, city or

20 township thereof, who has not the requisite qualifications for personally per-  
21 forming the duties of such office; and any person holding, or attempting to  
22 hold any office in violation of this act, shall be considered as illegally holding  
23 or attempting to hold the same; and the supreme court of this state may give  
24 judgment of ouster against such person, upon information proceeded upon in  
25 such manner as is usual in cases of information in nature of a quo warranto,  
26 at the relation of any person or persons desiring to sue or prosecute the same.

1     2. *And be it enacted*, That this act shall take effect immediately.

SENATE, No. 123.

STATE OF NEW JERSEY.

INTRODUCED FEBRUARY 21, 1911.

By Mr. ACKERMAN.

Referred to Committee on Judiciary.

AN ACT to amend an act entitled "An act regulating the employment, tenure and discharge of certain officers and employes of this State, and of the various counties and municipalities thereof, and providing for a civil service commission, and defining its powers and duties," approved April tenth, one thousand nine hundred and eight.

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

1 1. Section eighteen of the act of which this act is an amendment is hereby  
2 amended to read as follows:

3 18. All examinations required to be held by the provisions of this act both for  
4 positions in the competitive class and the non-competitive class, or any other class  
5 where examinations are required to be held, shall be free to all citizens of the  
6 State of New Jersey within the limitations specified in the rules of the commission  
7 as to residence, age, sex, health, habits and moral character. The commission  
8 may, when in its judgment the position for which an examination is to be held is  
9 of such a character as to require special technical training and specialization in a  
10 line of work for which candidates are not readily obtainable, admit to examina-  
11 tion citizens of other States. The commission shall state in its annual report the  
12 reasons for its action in the case of each examination of this character. Such ex-  
13 aminations shall be practical in their character and shall relate to those matters

14 which will fairly test the relative capacity of the persons examined to discharge the  
15 duties of the position to which they seek to be appointed, and may include tests of  
16 physical qualifications and health, and when appropriate, of manual skill. No ques-  
17 tion in any examination shall relate to the political or religious opinions or affilia-  
18 tions. The commission shall control all examinations, and may, whenever an ex-  
19 amination is to take place, designate a suitable person or persons either in or not  
20 in the official service of the State, to be examiners, and it shall be the duty of such  
21 examiners, and if in the official service it shall be part of their official duty, without  
22 extra compensation, to conduct such examinations as the commission may direct,  
23 and to make return or report thereof to said commission: and the said commis-  
24 sion may at any time substitute any other person, whether or not in such service,  
25 in the place of anyone so selected, and the commission may themselves at any time  
26 act as such examiners and without appointing examiners. Such examinations shall  
27 be held in such locality or localities as will most readily provide equal opportunity  
28 for all citizens of the said State with reference to position in the service of the State,  
29 or to all citizens of any municipality that may hereafter adopt the provisions of  
30 this act with reference to positions in the service of the said municipality. Due and  
31 sufficient notice thereof being given in such manner that all persons interested in  
32 the said examinations may have an opportunity of learning of the time, place and  
33 conditions of the said examinations. Such notice of the time and place and  
34 general scope of every examination shall be given by the commission, by publica-  
35 tion, for two weeks preceding such examination, in such newspapers of general  
36 circulation throughout the State as the commission shall prescribe, and such  
37 notice in printed form shall also be sent by the commissioners to the county clerks  
38 of each county, and by them promptly posted in a conspicuous place in the clerk's  
39 office of the said county.

1        2. This act shall take effect immediately.

ASSEMBLY AMENDMENTS TO  
SENATE, No. 123.

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STATE OF NEW JERSEY.

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1 Amend by inserting after the comma following the word "obtainable", in line  
2 ten (10) the following: "and when advertisement in the manner provided for in  
3 this act shall have failed to produce from among the citizens of New Jersey persons  
4 eligible to the position to be filled".

COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 172**

(P. L. 1908, page 235, Chapter 156.)

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# STATE OF NEW JERSEY

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ADOPTED FEBRUARY 12, 1924.

A SUPPLEMENT to an act entitled "An act regulating the employment, tenure and discharge of certain officers and employees of this State, and of the various counties and municipalities thereof, and providing for a Civil Service Commission, and defining its powers and duties," approved April tenth, one thousand nine hundred and eight.

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

1 1. For all positions and employments in the classified civil service, where the  
2 service is to be rendered in a particular county or municipality and payment for such  
3 service is made from the funds of such county or municipality, the Civil Service  
4 Commission shall limit the eligibility of those entering the examination or seeking  
5 appointment to the qualified residents of the county or municipality in which the  
6 service is to be rendered and from the funds of which the employee is to be paid.

1 2. This act shall take effect immediately.

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## STATEMENT.

Under existing classification probation officers, detectives, interpreters, Juvenile Court attendants and other subordinate employees connected with these departments and the courts are in the classified service of the State, being appointed by State officers. These employees serve their respective counties and municipalities and are paid out of county or municipal funds. Examinations for these positions are now open to qualified residents of the State. This bill proposes to limit eligibility to the residents of the county or municipality in which the service is rendered and from whose funds the em-

ployee is paid. It is a "home rule" measure, and in harmony with employment conditions set forth in Chapter 185, P. L. 1918.

This bill is approved of by both the Civil Service Commission and the Association of Chosen Freeholders.

ASSEMBLY, No. 21

STATE OF NEW JERSEY

INTRODUCED JANUARY 14, 1935

By Mr. SCHROEDER

Referred to Committee on Claims and Pensions

AN ACT to amend an act entitled "An act concerning municipalities," approved March twenty-seventh, one thousand nine hundred and seventeen.

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

1 1. Section three of Article XVII of an act entitled "An act concerning  
2 municipalities," approved March twenty-seventh, one thousand nine hundred  
3 and seventeen, be amended so as to read as follows:

4 3. The officers and men employed in every municipal paid fire depart-  
5 ment and the paid members of every municipal part-paid fire department  
6 shall severally hold their respective offices and continue in their respective  
7 employment during good behavior, efficiency and residence in the municipality  
8 wherein they are respectively employed; and no person shall be removed  
9 from office or employment in any such paid fire department nor shall the paid  
10 members be removed from any part-paid fire department or from the paid  
11 fire department of any such municipality for political reasons or for any  
12 other cause than incapacity, misconduct, nonresidence or disobedience of  
13 just rules and regulations established or which may be for the paid or part-  
14 paid fire department in such municipality; *provided*, that any member of any  
15 such paid fire department or a paid member of any part-paid fire depart-  
16 ment who shall be absent from duty without just cause for the term of five days  
17 continuously shall, at the expiration of such five days, cease to be a member of

18 such paid or part-paid fire department; each officer and member of any such  
19 paid fire department or paid member of any part-paid fire department shall  
20 be a citizen of the United States and a resident for two years next preceding  
21 his appointment of the municipality in which he is appointed; he must be of  
22 good moral character, sound in body and of good health, and able to read  
23 and write the English language intelligently; *and provided, further,* that it  
24 shall be lawful for the board, body or person in the respective municipalities  
25 of this State having authority to employ members of the fire department  
26 therein to employ officers or men temporarily in cases of emergency, or for  
27 parts of years in cases where their services are not needed throughout the  
28 entire year, and discharge them at the expiration of such temporary employ-  
29 ment.

1     2. All acts and parts of acts inconsistent with the provisions of this act  
2 be and the same are hereby repealed, and this act shall take effect im-  
3 mediately.

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#### STATEMENT

In several municipalities of this State a full paid fire department has not been established, but a number of paid, uniformed members are employed in volunteer departments, and doubt has arisen as to whether those men are protected by the tenure of office act. The purpose of this act is to clarify any doubt which might exist as to the status of the paid firemen employed in part-paid fire departments.

ASSEMBLY, No. 21

STATE OF NEW JERSEY

INTRODUCED JANUARY 14, 1935

By Mr. SCHROEDER

Referred to Committee on Claims and Pensions

AN ACT to amend an act entitled "An act concerning municipalities," approved March twenty-seventh, one thousand nine hundred and seventeen.

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

1 1. Section three of Article XVII of an act entitled "An act concerning  
2 municipalities," approved March twenty-seventh, one thousand nine hundred  
3 and seventeen, be amended so as to read as follows:

4 3. The officers and men employed in every municipal paid fire depart-  
5 ment and the paid members of every municipal part-paid fire department  
6 who are permanently employed by the municipality at a fixed annual salary  
7 and whose sole occupation is that of fireman in said municipal part-paid  
8 fire department shall severally hold their respective offices and continue in  
9 their respective employment during good behavior, efficiency and residence  
10 in the municipality wherein they are respectively employed; and no person  
11 shall be removed from office or employment in any such paid fire depart-  
12 ment nor shall any member of any municipal part-paid fire department who  
13 is permanently employed by the municipality at a fixed annual salary and  
14 whose sole occupation is that of fireman in said municipal part-paid fire  
15 department or from the paid fire department of any such municipality for  
16 political reasons or for any other cause than incapacity, misconduct, non-  
17 residence or disobedience of just rules and regulations established or which  
18 may be for the paid or part-paid fire department in such municipality; *pro-*

19 *vided*, that any member of any such paid fire department or any member of  
20 any municipal part-paid fire department who is permanently employed by  
21 the municipality at a fixed annual salary and whose sole occupation is that  
22 of fireman in said municipal part-paid fire department who shall be absent  
23 from duty without just cause for the term of five days continuously shall,  
24 at the expiration of such five days, cease to be a member of such paid or  
25 part-paid fire department; each officer and member of any such paid fire  
26 department and each member of any municipal part-paid fire department  
27 who is permanently employed by the municipality at a fixed annual salary  
28 and whose sole occupation is that of fireman in said municipal part-paid fire  
29 department shall be a citizen of the United States and a resident for two years  
30 next preceding his appointment of the municipality in which he is ap-  
31 pointed; he must be of good moral character, sound in body and of good  
32 health, and able to read and write the English language intelligently; *and*  
33 *provided, further*, that it shall be lawful for the board, body or person in  
34 the respective municipalities of this State having authority to employ mem-  
35 bers of the fire department therein to employ officers or men temporarily in  
36 cases of emergency, or for parts of years in cases where their services are  
37 not needed throughout the entire year, and discharge them at the expira-  
38 tion of such temporary employment.

1       2. All acts and parts of acts inconsistent with the provisions of this act  
2 be and the same are hereby repealed, and this act shall take effect im-  
3 mediately.

[OFFICIAL COPY REPRINT]  
SENATE AMENDMENTS TO  
ASSEMBLY, No. 21

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STATE OF NEW JERSEY

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ADOPTED MAY 13, 1935

Amend line 5, on page 1, by inserting after the word "department" "who are permanently employed by the municipality at a fixed annual salary and whose sole occupation is that of fireman in said municipal part-paid fire department".

Amend line 9, page 1, by striking out "the paid members be removed from any part-paid fire department".

Amend line 9, page 1, after the word "shall" by inserting "any member of any municipal part-paid fire department who is permanently employed by the municipality at a fixed annual salary and whose sole occupation is that of fireman in said municipal part-paid fire department".

Amend line 15, page 1, by striking out "a paid member of any part-paid fire department" and add to line 15 after the word "or" "any member of any municipal part-paid fire department who is permanently employed by the municipality at a fixed annual salary and whose sole occupation is that of fireman in said municipal part-paid fire department".

Amend line 19, page 2, by striking out the words "or paid member of any part-paid fire department" and add after the word "department" "and each member of any municipal part-paid fire department who is permanently employed by the municipality at a fixed annual salary and whose sole occupation is that of fireman in said municipal part-paid fire department".

SENATE, No. 133

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 21, 1944

By Mr. FARLEY

Referred to Committee on Judiciary

AN Act to establish a Department of Law in the Executive Department or branch of the State government and to prescribe the powers and duties of said department; to centralize in such department such facilities, afforded by the State for the rendering of legal services to the Governor and to the various officers, departments, boards, bodies, commissions and instrumentalities in the Executive Department or branch of the State government, as will promote economy and efficiency in the conduct of the State government; to provide for the enforcement of the criminal law of the State by such department when the ends of justice so require; to require the prosecutors of the pleas of the various counties to make report of the performance of their duties and the operation of their respective offices to the Attorney-General as head of the Department of Law; to abolish certain offices and positions; and to repeal chapter seventeen of Title 52 of the Revised Statutes and "An act concerning the State Highway Department," approved May twenty-fourth, one thousand nine hundred and thirty-nine (P. L. 1939, c. 75); "An act concerning the legal assistants to the Attorney-General," approved June twenty-seventh, one thousand nine hundred and thirty-nine (P. L. 1939, c. 101); "A supplement to an act entitled 'An act to define the duties and fix the salary of the Attorney-General,' approved February twenty-fourth, one thousand eight hundred and fifty-four," approved March twenty-fifth, one thousand nine hundred and thirteen (P. L.

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1913, c. 139); "An act to amend an act entitled 'A supplement to an act entitled "An act to define the duties and fix the salary of the Attorney-General," approved February twenty-fourth, one thousand eight hundred and fifty-four,' which said supplement was approved March twenty-fifth, one thousand nine hundred and thirteen," approved March fourth, one thousand nine hundred and eighteen (P. L. 1918, c. 234).

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

1 1. The purpose of this act is to accomplish economy and efficiency by cen-  
2 tralizing, in one department, the facilities afforded by the State for the ren-  
3 dering of legal services to the Governor and to all officers, departments,  
4 boards, bodies, commissions and instrumentalities in the Executive Depart-  
5 ment or branch of the State government and to provide for the enforcement  
6 of the criminal law of the State by such department where the ends of  
7 justice so require.

1 2. There is hereby established a Department of Law in the Executive  
2 Department or branch of the State government.

1 3. The head of the Department of Law shall be the Attorney-General,  
2 who shall receive an annual salary of fifteen thousand dollars (\$15,000.00).

1 4. It shall be the duty of the Department of Law, by the Attorney-Gen-  
2 eral or by such of his deputies as he shall designate, to

3 a. Be present at the seat of the government during the sessions of  
4 the Legislature;

5 b. Give to the Governor, to the members of the Senate and the Gen-  
6 eral Assembly, and to all other officers, departments, boards, bodies,  
7 commissions and instrumentalities in the Executive Department or  
8 branch of the State government, legal advice on such matters as they  
9 may from time to time request;

10 c. Examine and decide all cases submitted for his opinion by the  
11 Governor or by any officer, department, board, body, commission or in-  
12 strumentality in the Executive Department or branch of the State gov-

13 ernment and inspect the title papers upon all applications for loans of  
14 the school fund;

15 d. Carry out and enforce the provisions of the New Jersey securi-  
16 ties law:

17 e. Act as the sole legal adviser, attorney or counsel, notwithstand-  
18 ing the provisions of any other law, for all officers, departments, boards,  
19 bodies, commissions and instrumentalities in the Executive Department  
20 or branch of the State government in all matters other than those re-  
21 quiring the performance of administrative functions entailing the enforce-  
22 ment, prosecution and hearing of issues as imposed by law upon them;  
23 and represent them in all suits, proceedings or actions of any kind  
24 which may be brought for or against them in any courts of this State;

25 f. Render aid in the prosecution of the criminal business of any  
26 county at the written request of the prosecutor of the pleas of the county;  
27 prosecute the criminal business of the State in a county having no prose-  
28 cutor of the pleas; attend for the trial of homicide cases and other high  
29 crimes and misdemeanors, or for the prosecution of the criminal business  
30 of the State, in any county, on the written request of a justice of the Su-  
31 preme Court or of the board of chosen freeholders of the county; and at-  
32 tend for the prosecution of a specific investigation or of a particular crim-  
33 inal case in any county on the written request of the Governor.

34 g. Attend generally to all legal matters in which the State or any  
35 officer, department, board, body, commission or instrumentality in the  
36 Executive Department or branch of the State government is a party  
37 or in which its rights or interests are involved;

38 h. Succeed to all the powers and be charged with all of the duties  
39 conferred and imposed by law upon the Attorney-General.

40 5. Whenever the Attorney-General, personally or by his deputies, shall  
41 attend in any county, at the request of the Governor or of a justice of the  
42 Supreme Court or of the board of chosen freeholders or of the prosecutor  
43 of the pleas of the county, for the prosecution of the criminal business of

5 the State in said county or of such part thereof as shall be designated in, or  
6 as shall fall within the general purview of the matters designated in, the  
7 written request therefor, the Attorney-General and his deputies shall have  
8 all the power and authority of the prosecutor of the pleas for prosecuting  
9 the criminal business of the State or such part thereof, including the in-  
10 vestigation of alleged crimes and misdemeanors, the attendance before the  
11 criminal courts and grand juries of the county, the preparation and trial of  
12 indictments for crimes and misdemeanors and the representation of the State  
13 in all proceedings in criminal cases on error or otherwise in the courts of  
14 this State.

15 Whenever the criminal business or any part of the criminal business of  
16 any county is prosecuted by the Attorney-General, personally or by his dep-  
17 uties, there shall be paid, by the treasurer of the county, such sum for that  
18 special service as the justice of the Supreme Court of that judicial district  
19 or a judge of the court of common pleas of said county shall certify and  
20 fix, on the application of the Attorney-General; *provided*, that the compen-  
21 sation allowed shall not exceed that provided by law for the payment of the  
22 prosecutor in said county for the same or similar services.

23 In prosecuting such criminal business, the Attorney-General shall have  
24 power to employ such investigators, clerical and other assistants and to  
25 incur such expenses as he shall determine and the cost thereof, including the  
26 compensation allowed as aforesaid of any deputy attorneys-general who  
27 shall be employed or designated by the Attorney-General for that special  
28 purpose in addition to those regularly employed in the Department of Law,  
29 shall likewise be paid by the treasurer of the county when certified and fixed  
30 in the same manner.

1 6. The Attorney-General may appoint as his legal assistants in the  
2 Department of Law deputy attorneys-general and assistant deputy attorneys-  
3 general who shall perform such duties as the Attorney-General shall from  
4 time to time designate.

1 7. Deputy attorneys-general in the Department of Law shall hold their  
2 offices at the pleasure of the Attorney-General and shall receive such sal-  
3 aries as he shall from time to time designate.

1 8. Assistant deputy attorneys-general of the Department of Law shall  
2 be appointed by the Attorney-General at his pleasure and, after six years'  
3 service in their positions, they shall hold their positions during efficiency  
4 and good behavior and shall not be removed therefrom except for good  
5 cause, and not because of religious or political opinions or affiliations, after  
6 a public, fair and impartial hearing before the Civil Service Commission.  
7 They shall receive such salaries, not exceeding the sum of seventy-five  
8 hundred dollars (\$7,500.00) per year, as the Attorney-General shall from  
9 time to time designate and shall devote their entire time to the perform-  
10 ance of their duties in the Department of Law and shall not engage in the  
11 private practice of law.

1 9. No member of the Department of Law shall act as attorney or counsel  
2 in any controversy in which the State has an adverse interest, except in his  
3 official capacity.

1 10. No member of the Department of Law shall receive any compensa-  
2 tion, fees or costs in addition to his regular salary for or by reason of any  
3 service performed by him for the State or for any political subdivision  
4 thereof except by allowance or appropriation by the Legislature and any  
5 additional compensation, fees or costs so payable to or received by any mem-  
6 ber of the Department of Law, not so allowed or appropriated, shall be paid  
7 to the State Treasurer for the use of the State, but the provisions of this  
8 section shall not be construed to prevent the payment of compensation of  
9 any additional deputy attorney-general, who may be employed or designated  
10 by the Attorney-General to act in any county under section five of this act,  
11 by the county in which he is designated to act by the Attorney-General.

1 11. No officer, department, board, body, commission or instrumentality  
2 in the Executive Department or branch of the State government shall em-  
3 ploy any person to act as attorney, counsel, solicitor, legal assistant or

4 other legal adviser to such officer, department, board, body, commission or  
5 instrumentality except under full-time employment solely in the perform-  
6 ance of administrative functions entailing the enforcement, prosecution and  
7 hearing of issues as imposed by law upon such officer, department, board,  
8 body, commission or instrumentality.

1       12. The Attorney-General may assign a deputy attorney-general or an  
2 assistant deputy attorney-general to serve in any legal capacity in or for  
3 any officer, department, board, body, commission or instrumentality of the  
4 Executive Department or branch of the State government on a part-time or  
5 full-time basis whenever, in the judgment of the Attorney-General, such as-  
6 signment will contribute to the efficiency of the operation of such office,  
7 department, board, body, commission or instrumentality, but such member of  
8 the Department of Law shall remain under the supervision and control of  
9 the Attorney-General while so serving and his compensation shall be pay-  
10 able solely from appropriations made to the Department of Law.

1       13. No special counsel shall be employed for the State or for or by any  
2 officer, department, board, body, commission or instrumentality in the Ex-  
3 ecutive Department or branch of the State government except by authority  
4 of the Attorney-General and then only in cases to be tried without the State  
5 or in which the State joins or is joined with another State but this provision  
6 shall not apply in any case in which the employment of special counsel is  
7 authorized by law enacted prior to the employment.

1       14. The Attorney-General shall make an annual detailed report to the  
2 Governor of the performance of his duties and the operations of the Depart-  
3 ment of Law and shall make such other reports to the Governor as the  
4 Governor may require from time to time.

1       15. The prosecutors of the pleas of the various counties shall make an-  
2 nual detailed reports to the Attorney-General of the performance of their  
3 duties and the operations of their offices and shall make such other reports  
4 to the Attorney-General as the Attorney-General may require from time to  
5 time.

1 16. The Department of the Attorney-General heretofore existing and  
2 the offices and positions of assistant attorneys-general, legal assistants to  
3 the Attorney-General, special counsel or legal counsel to or by appointment  
4 of or under the Attorney-General hereby are abolished and all other em-  
5 ployees of the Department of the Attorney-General hereby are transferred  
6 to the Department of Law and shall serve in appropriate similar positions  
7 in said department and shall retain all of their rights and privileges under  
8 Title 11, Civil Service, of the Revised Statutes.

1 17. All officers and positions of attorneys, counsel, solicitors, or other  
2 legal advisers to any officer, department, board, body, commission or in-  
3 strumentality in the Executive Department or branch of the State govern-  
4 ment hereby are abolished, except such offices or positions in which the incum-  
5 bents are employed, under full-time employment, solely in the performance  
6 of administrative functions entailing the enforcement, prosecution and hear-  
7 ing of issues as imposed by law upon such officer, department, board, body,  
8 commission or instrumentality.

1 18. The offices and quarters heretofore occupied by the Department of  
2 the Attorney-General and all books, papers, documents and other property of  
3 the Department of the Attorney-General hereby are transferred to the De-  
4 partment of Law as of the date upon which this act becomes effective.

1 19. All moneys appropriated at the time this act becomes effective to  
2 the Attorney-General or to any officer, department, board, body, commission  
3 or instrumentality in the Executive Department or branch of the State gov-  
4 ernment for the compensation and expenses of attorneys, counsel, solicitors  
5 or other legal advisers to such officer, department, board, body, commission  
6 or instrumentality, whose offices or positions are abolished by this act, shall  
7 be transferred and made available to the Department of Law as of said date  
8 or as and when such appropriation shall become available.

1 20. Chapter seventeen of Title 52 of the Revised Statutes and "An act  
2 concerning the State Highway Department," approved May twenty-fourth,  
3 one thousand nine hundred and thirty-nine (P. L. 1939, c. 75); "An act con-

4 cerning the legal assistants to the Attorney-General," approved June twenty-  
5 seventh, one thousand nine hundred and thirty-nine (P. L. 1939, c. 101);  
6 "A supplement to an act entitled 'An act to define the duties and fix the  
7 salary of the Attorney-General,' approved February twenty-fourth, one thou-  
8 sand, eight hundred and fifty-four," approved March twenty-fifth, one thou-  
9 sand nine hundred and thirteen (P. L. 1913, c. 139); "An act to amend an act  
10 entitled 'A supplement to an act entitled "An act to define the duties and  
11 fix the salary of the Attorney-General," approved February twenty-fourth,  
12 one thousand eight hundred and fifty-four,' which said supplement was ap-  
13 proved March twenty-fifth, one thousand nine hundred and thirteen," ap-  
14 proved March fourth, one thousand nine hundred and eighteen (P. L. 1918,  
15 c. 234) are repealed.

1     21. This act shall take effect immediately.

COMMITTEE SUBSTITUTE FOR  
SENATE, No. 133

STATE OF NEW JERSEY

ADOPTED MARCH 6, 1944

AN ACT to establish a Department of Law in the State Government.

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

1 1. The purpose of this act is to accomplish economy and efficiency by  
2 centralizing, in one department, the facilities afforded by the State for the  
3 rendering of legal services to the Governor and to all officers, departments,  
4 boards, bodies, commissions and instrumentalities of the State Government  
5 and to provide for the enforcement of the criminal law of the State by such  
6 department where the ends of justice so require.

1 2. There is hereby established a Department of Law in the State Govern-  
2 ment. The Attorney-General shall be the head of said department and the  
3 Attorney-General shall be nominated by the Governor and appointed by  
4 him with the advice and consent of the Senate and shall hold his office for  
5 the term of five years.

1 3. The Department of Law shall be administered by the Attorney-  
2 General and his deputy attorneys-general and deputy assistant attorneys-  
3 general as herein provided.

4 The Attorney-General shall receive an annual salary of fifteen thousand  
5 dollars (\$15,000.00).

1 4. The powers and duties of the Department of Law shall be the powers  
2 and duties now or hereafter conferred upon or required of the Attorney-  
3 General, either by the Constitution or by the common and statutory law of  
4 the State, and as specifically but not exclusively as detailed herein, to wit:

5 a. Be present at the seat of the government during the sessions of  
6 the Legislature;

7 b. Give to the Governor, to the members of the Senate and the Gen-  
8 eral Assembly, and to all other officers, departments, boards, bodies,  
9 commissions and instrumentalities of the State Government, legal advice  
10 on such matters as they may from time to time require.

11 c. Examine and decide all legal matters submitted to him by the  
12 Governor or the Legislature and act for them in any matter in which  
13 they may be interested, and shall exclusively attend to and control all  
14 litigation and controversies to which the State is a party or in which its  
15 rights and interests are involved.

16 d. Carry out and enforce the provisions of the New Jersey secu-  
17 rities law; also the civil rights law.

18 e. Act as the sole legal adviser, attorney or counsel, notwithstand-  
19 ing the provisions of any other law, for all officers, departments, boards,  
20 bodies, commissions and instrumentalities of the State Government in all  
21 matters other than those requiring the performance of administrative  
22 functions entailing the enforcement, prosecution and hearing of issues as  
23 imposed by law upon them; and represent them in all suits, proceed-  
24 ings or actions of any kind which may be brought for or against them  
25 in any court of this State; and shall likewise interpret all statutes and  
26 legal documents, inspect and approve contracts and titles and otherwise  
27 control their legal activities.

28 f. Render aid in the prosecution of the criminal business of any  
29 county at the written request of the prosecutor of the pleas of the county;  
30 prosecute the criminal business of the State in a county having no pros-  
31 ecutor of the pleas; attend for the trial of homicide cases and other  
32 high crimes and misdemeanors, or for the prosecution of the criminal  
33 business of the State, in any county, on the written request of a Jus-  
34 tice of the Supreme Court or of the board of chosen freeholders of the  
35 county; and attend for the prosecution of a specific investigation or of

36 a particular criminal case in any county on the written request of the  
37 Governor.

38 g. Attend generally to all legal matters in which the State or any  
39 officer, department, board, body, commission or instrumentality of the  
40 State Government is a party or in which its rights or interests are  
41 involved;

42 h. Enforce the provisions of the Constitution and all other laws of  
43 the State, as well as perform all of the duties conferred and imposed  
44 by law upon the Attorney-General.

1 5. Whenever the Attorney-General, personally or by his deputies or  
2 assistants, shall attend in any county where there is no prosecutor, or at  
3 the request of the Governor or of a Justice of the Supreme Court or of the  
4 board of chosen freeholders or of the prosecutor of the pleas of the county,  
5 for the prosecution of the criminal business of the State in said county or  
6 of such part thereof as shall be designated in, or as shall fall within the  
7 general purview of the matters designated in, the written request therefor,  
8 the Attorney-General and his deputies or assistants shall have all the power  
9 and authority of the prosecutor of the pleas for prosecuting the criminal  
10 business of the State or such part thereof, including the investigation of  
11 alleged crimes and misdemeanors, the attendance before the criminal courts  
12 and grand juries of the county, the preparation and trial of indictments  
13 for crimes and misdemeanors and the representation of the State in all pro-  
14 ceedings in criminal cases on error or otherwise in the courts of this State.

15 Whenever the Attorney-General shall have taken over the duties of a  
16 prosecutor of the pleas, he shall have all of the authority conferred by law  
17 upon the prosecutor, and he may appoint such temporary assistants as he  
18 may deem necessary, and shall also have power to appoint such aids, inves-  
19 tigators or other personnel and clerical assistants as he shall deem neces-  
20-22 sary.

23 Whenever the criminal business or any part of the criminal business of  
24 any county is prosecuted by the Attorney-General, personally or by his depu-

25 ties or assistants, there shall be paid, by the treasurer of the county, such  
26 sum for that special service as the Justice of the Supreme Court of that  
27 judicial district or a judge of the court of common pleas of said county  
28 shall certify and fix, on the application of the Attorney-General; *provided*,  
29 that the compensation allowed shall not exceed that provided by law for  
29½ the payment of the prosecutor in said county for the same or similar services;  
30 *provided, however*, that no compensation so allowed shall affect the salary of  
30½ the prosecutor or assistant prosecutors if any in said county.

31 In prosecuting such criminal business, the Attorney-General shall have  
32 power to employ such investigators, clerical and other assistants and to  
33 incur such expenses as he shall determine, and the cost thereof, including  
34 the compensation allowed as aforesaid of any deputy or assistant attorneys-  
35 general who shall be employed or designated by the Attorney-General for  
36 that special purpose in addition to those regularly employed in the Depart-  
37 ment of Law, shall likewise be paid by the treasurer of the county when  
38 certified and fixed in the same manner.

1 6. The Attorney-General may appoint as his legal assistants in the  
2 Department of Law deputy attorneys-general and assistant deputy attorneys-  
3 general who shall perform such duties as the Attorney-General shall from  
4 time to time designate. The Attorney-General may also appoint necessary  
5 clerks and employees and fix their compensation.

1 7. Deputy attorneys-general in the Department of Law shall hold their  
2 offices at the pleasure of the Attorney-General and shall receive such sal-  
3 aries as he shall from time to time designate.

1 8. Assistant deputy attorneys-general of the Department of Law shall  
2 be appointed by the Attorney-General at his pleasure and, after three years'  
3 service in their positions, they shall hold their positions during efficiency  
4 and good behavior and shall not be removed therefrom except for good cause,  
5 and not because of religious or political opinions or affiliations, after a pub-  
6 lic, fair and impartial hearing before the Civil Service Commission. They  
7 shall receive such salaries, not exceeding the sum of seventy-five hundred  
8 dollars (\$7,500.00) per year, as the Attorney-General shall from time to

9 time designate and shall devote their entire time to the performance of their  
10 duties in the Department of Law, and shall not engage in the private prac-  
11 tice of law.

1 9. No member of the Department of Law shall act as attorney or counsel  
2 in any controversy in which the State has an interest, except in his official  
3 capacity.

1 10. No member of the Department of Law shall receive any compensa-  
2 tion, fees or costs in addition to his regular salary for or by reason of any  
3 service performed by him for the State or for any political subdivision  
4 thereof except by allowance or appropriation by the Legislature, and any  
5 additional compensation, fees or costs so payable to or received by any mem-  
6 ber of the Department of Law, not so allowed or appropriated, shall be paid  
7 to the State Treasurer for the use of the State; but the provisions of this  
8 section shall not be construed to prevent the payment of compensation of  
9 any additional deputy attorney-general, who may be employed or designated  
10 by the Attorney-General solely to act in any county under section five of  
11 this act, by the county in which he is designated to act by the Attorney-  
12 General.

1 11. No officer, department, board, body, commission or instrumentality  
2 of the State Government shall employ any person to act as attorney, coun-  
3 sel, solicitor, legal assistant or other legal adviser to such officer, department,  
4 board, body, commission or instrumentality. Nor shall such officer, depart-  
5 ment, board, body, commission or instrumentality of the State Government  
6 employ any person in any legal capacity for the purpose of giving legal  
7 advice or rendering legal services, but such officer, department, board, body,  
8 commission or instrumentality may employ an attorney-at-law under full-  
9 time employment solely in the performance of administrative functions entail-  
10 ing the hearing of issues and determining facts in order that the said officer,  
11 department, board, body, commission or instrumentality may perform his  
12 or its functions as required by law; *provided, however*, that no such attorney  
13 shall act in a legal capacity in the prosecution of any charge or complaint  
14 before any such officer, department, board, body, commission or instru-  
15 mentality.

1       12. The Attorney-General may assign a deputy attorney-general or an  
2 assistant deputy attorney-general to serve in any legal capacity in or for  
3 any officer, department, board, body, commission or instrumentality of the  
4 State Government on a part-time or full-time basis whenever, in the judg-  
5 ment of the Attorney-General, such assignment will contribute to the effi-  
6 ciency of the operation of such office, department, board, body, commission  
7 or instrumentality, but such member of the Department of Law shall remain  
8 under the supervision and control of the Attorney-General while so serving  
9 and his compensation shall be payable solely from appropriations made to the  
10 Department of Law.

1       13. No special counsel shall be employed for the State or for or by  
2 any officer, department, board, body, commission or instrumentality of the  
3 State Government except by authority of the Attorney-General, and then  
4 only with the approval of the Governor, and provided that appropriations  
5 have been made therefor, unless the matter be of such an emergency and  
6 shall be so declared by the Governor.

1       14. The Attorney-General shall make an annual detailed report to the  
2 Governor and the Legislature of the performance of his duties and the opera-  
3 tions of the Department of Law and shall make such other reports to the  
4 Governor and the Legislature as the Governor or the Legislature may require  
5 from time to time.

1       15. The prosecutors of the pleas of the various counties shall make  
2 annual reports to the Attorney-General of the performance of their duties  
3 and the operations of their offices and shall make such other reports to the  
4 Attorney-General as the Attorney-General may require from time to time.

1       16. The Department of the Attorney-General heretofore existing and the  
2 offices and positions of assistant attorneys-general, legal assistants to the  
3 Attorney-General, special counsel or legal counsel to or by appointment of  
4 or under the Attorney-General hereby are abolished, and all other employees  
5 of the Department of the Attorney-General hereby are transferred to the  
6 Department of Law and shall serve in appropriate similar positions in said

7 department and shall retain all of their rights and privileges under Title 11,  
8 Civil Service, of the Revised Statutes.

1     17. All offices and positions of attorneys, counsel, solicitors, or other  
2 legal advisers to any officer, department, board, body, commission or instru-  
3 mentality of the State Government hereby are abolished, except such offices  
4 or positions in which the incumbents are employed, under full-time employ-  
5 ment, solely in the performance of administrative functions entailing the  
6 enforcement, prosecution and hearing of issues as imposed by law upon such  
7 officer, department, board, body, commission or instrumentality; *provided*,  
8 *however*, that all boards, bodies, commissions, agencies or public corporate  
9 instrumentalities of this State created by compact or agreement with a com-  
10 monwealth or another State are excluded from the provisions and the effect  
11 of this act.

1     18. The offices and quarters heretofore occupied by the Department of  
2 the Attorney-General and all books, papers, documents and other property  
3 of the Department of the Attorney-General hereby are transferred to the  
4 Department of Law as of the date upon which this act becomes effective.

1     19. All moneys appropriated at the time this act becomes effective to  
2 the Attorney-General or to any officer, department, board, body, commis-  
3 sion or instrumentality of the State Government for the compensation and  
4 expenses of attorneys, counsel, solicitors or other legal advisers to such offi-  
5 cer, department, board, body, commission or instrumentality, whose offices  
6 or positions are abolished by this act, shall be transferred and made avail-  
7 able to the Department of Law as of said date or as and when such appro-  
8 priation shall become available. Until appropriations may become available  
9 for the next fiscal year, there is hereby appropriated the additional sum of  
10 fourteen thousand dollars (\$14,000.00) for the payment of the salaries of the  
11 Attorney-General as fixed herein and his deputies and assistants as fixed  
12 by him, and also the expenses of the Attorney-General, his deputies and  
13 assistants.

1       20. Chapter seventeen of Title 52 of the Revised Statutes and “An act  
2 concerning the State Highway Department,” approved May twenty-fourth,  
3 one thousand nine hundred and thirty-nine (P. L. 1939, c. 75); “An act con-  
4 cerning the legal assistants to the Attorney-General,” approved June twenty-  
5 seventh, one thousand nine hundred and thirty-nine (P. L. 1939, c. 101);  
6 “A supplement to an act entitled ‘An act to define the duties and fix the  
7 salary of the Attorney-General,’ approved February twenty-fourth, one thou-  
8 sand eight hundred and fifty-four,” approved March twenty-fifth, one thou-  
9 sand nine hundred and thirteen (P. L. 1913, c. 139); “An act to amend an  
10 act entitled ‘A supplement to an act entitled “An act to define the duties  
11 and fix the salary of the Attorney-General,” approved February twenty-  
12 fourth, one thousand eight hundred and fifty-four,’ which said supplement  
13 was approved March twenty-fifth, one thousand nine hundred and thirteen,”  
14 approved March fourth, one thousand nine hundred and eighteen (P. L. 1918,  
15 c. 234), are repealed.

1       21. This act shall take effect immediately.

1 19. Section 52:16-4 of the Revised Statutes is amended to read as  
2 follows:

3 52:16-4. The Secretary of State shall keep his office within the city of  
4 Trenton.

1 20. Section 52:16-8 of the Revised Statutes is amended to read as  
2 follows:

3 52:16-8. The Secretary of State shall, with all convenient speed, record  
4 all papers which shall come to his hands and which it is his duty to record,  
5 and also file such papers in his office, agreeably to law.

1 21. Section four of chapter twenty of the laws of one thousand nine hun-  
2 dred and forty-four is amended to read as follows:

3 4. The powers and duties of the Division of Law shall be the powers  
4 and duties now or hereafter conferred upon or required of the Attorney-  
5 General, either by the Constitution or by the common and statutory law of  
6 the State, and as specifically but not exclusively as detailed herein, to wit:

7 a. Be present at the seat of the government during the sessions of the  
8 Legislature;

9 b. Give to the Governor, to the members of the Senate and the General  
10 Assembly, and to all other officers, departments, boards, bodies, commissions  
11 and instrumentalities of the State Government, legal advice on such matters  
12 as they may from time to time require.

13 c. Examine and decide all legal matters submitted to him by the Gover-  
14 nor or the Legislature and act for them in any matter in which they may be  
15 interested, and shall exclusively attend to and control all litigation and con-  
16 troversies to which the State is a party or in which its rights and interests  
17 are involved.

18 d. Carry out and enforce the provisions of the New Jersey Securities  
19 Law; also the Civil Rights Law.

20 e. Act as the sole legal adviser, attorney or counsel, notwithstanding the  
21 provisions of any other law, for all officers, departments, boards, bodies, com-  
22 missions and instrumentalities of the State Government in all matters other

23 than those requiring the performance of administrative functions entailing  
 24 the enforcement, prosecution and hearing of issues as imposed by law upon  
 25 them; and represent them in all proceedings or actions of any kind which  
 26 may be brought for or against them in any court of this State; and  
 27 shall likewise interpret all statutes and legal documents, inspect and approve  
 28 contracts and titles and otherwise control their legal activities.

29 f. Render aid in the prosecution of the criminal business of any county  
 30 at the written request of the county prosecutor; prosecute the criminal busi-  
 31 ness of the State in a county having no county prosecutor; attend for the trial  
 32 of homicide cases and other high crimes and misdemeanors, or for the prose-  
 33 cution of the criminal business of the State, in any county, on the written  
 34 request of an assignment judge of the Superior Court or of the board of  
 35 chosen freeholders of the county; and attend for the prosecution of a specific  
 36 investigation or of a particular criminal case in any county on the written  
 37 request of the Governor.

38 g. Attend generally to all legal matters in which the State or any officer,  
 39 department, board, body, commission or instrumentality of the State Gov-  
 40 ernment is a party or in which its rights or interests are involved;

41 h. Enforce the provisions of the Constitution and all other laws of the  
 42 State, as well as perform all of the duties conferred and imposed by law upon  
 43 the Attorney-General.

1 22. Section five of chapter twenty of the laws of one thousand nine  
 2 hundred and forty-four is amended to read as follows:

3 5. Whenever the Attorney-General, personally or by his deputies or as-  
 4 sistants, shall attend in any county where there is no county prosecutor, or  
 5 at the request of the Governor or of an assignment judge of the Superior  
 6 Court or of the board of chosen freeholders or of the county prosecutor  
 7 of the county, for the prosecution of the criminal business of the State in  
 8 said county or of such part thereof as shall be designated in, or as shall  
 9 fall within the general purview of the matters designated in, the written  
 10 request therefor, the Attorney-General and his deputies or assistants shall

11 have all the power and authority of the county prosecutor for prosecuting  
12 the criminal business of the State or such part thereof, including the inves-  
13 tigation of alleged crimes and misdemeanors, the attendance before the  
14 criminal courts and grand juries of the county, the preparation and trial  
15 of indictments for crimes and misdemeanors and the representation of the  
16 State in all proceedings in criminal cases on appeal or otherwise in the  
17 courts of this State.

18 Whenever the Attorney-General shall have taken over the duties of a  
19 county prosecutor, he shall have all of the authority conferred by law upon  
20 the prosecutor, and he may appoint such temporary assistants as he may  
21 deem necessary, and shall also have power to appoint such aids, investiga-  
22 tors or other personnel and clerical assistants as he shall deem necessary.

23 Whenever the criminal business or any part of the criminal business of  
24 any county is prosecuted by the Attorney-General, personally or by his dep-  
25 uties or assistants, there shall be paid, by the treasurer of the county, such  
26 sum for that special service as the assignment judge of the Superior Court  
27 of the county or a judge of the County Court of said county shall  
28 certify and fix, on the application of the Attorney-General; *provided*, that  
29 the compensation allowed shall not exceed that provided by law for the pay-  
30 ment of the county prosecutor in said county for the same or similar serv-  
31 ices; *provided, however*, that no compensation so allowed shall affect the  
32 salary of the county prosecutor or assistant prosecutors if any in said county. ✓

33 In prosecuting such criminal business, the Attorney-General shall have  
34 power to employ such investigators, clerical and other assistants and to  
35 incur such expenses as he shall determine, and the cost thereof, including the  
36 compensation allowed as aforesaid of any deputy or assistant attorneys-  
37 general who shall be employed or designated by the Attorney-General for  
38 that special purpose in addition to those regularly employed in the Divi-  
39 sion of Law, shall likewise be paid by the treasurer of the county when cer-  
40 tified and fixed in the same manner.

# Supreme Court of New Jersey

DOCKET No. 2245

H. RUSSELL MORSS, JR., Union County Prosecutor,  
*Plaintiff-Appellant  
and Cross-Respondent,*

vs.

MALCOLM S. FORBES, DONAL C. FOX, FRANK  
W. SHERSHIN, DOMINICK A. CUNDARI, PAUL  
M. SALSBURG and JOSEPH W. THURING, individ-  
ually and as members of the Legislature of the State of  
New Jersey and as Members of the "Joint Legislative Com-  
mittee To Study Wire Tapping And The Unauthorized Re-  
cording of Speech",

*Defendants-Respondents  
and Cross-Appellants.*

Civil Action  
On Cross-Appeals  
from Order  
Granting  
Interlocutory  
Injunction of the  
Superior Court  
of New Jersey,  
Chancery  
Division—  
Mercer County

Sat Below:  
Schettino, J.S.C.  
(Leave to Appeal  
Granted)

## SUPPLEMENTAL BRIEF OF PLAINTIFF-APPELLANT AND CROSS-RESPONDENT, H. RUSSELL MORSS, JR.

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## Introduction

This brief is in response to certain questions propounded by this Court by letter dated January 10, 1957 from the Clerk of the Supreme Court. These are as follows:

“The Court desires briefs and argument on the question of the power and responsibility of the Attorney General as head of the Department of Law and Public Safety with relation to the twenty-one prosecutors, and especially with relation to the privilege asserted in the pending case. 10

In answering this question we wish to have counsel consider the problem in the light of Article V Section I, paragraph 1, of the Constitution of 1947 (and this question in turn should be considered in the light of the interpretation of similar provisions in other state constitutions) and especially with respect to the privilege asserted in the pending case.” 20

Reference is made in the above questions to the privilege asserted in the pending case. The plaintiff asserts a constitutional right to withhold law enforcement records held by him as county prosecutor.

The following material is divided into 3 sections. In our first we discuss the relationship between the Attorney General, as head of the Department of Law & Public Safety, and the 21 County Prosecutors. In the second point, consideration is given to Art. V, Sec. I, Par. 1 of the Constitution of 1947, as it relates to the power of the Governor over the 21 County Prosecutors, to similar constitutional provisions in other states, and to judicial decisions construing such provisions. 30

Finally, conclusions are drawn relating to the respective powers of the Governor, the Attorney General and the County Prosecutor in the area of law enforcement, with special attention being given to the privilege asserted by the plaintiff in this case. 40

## POINT I

**The relationship between the Attorney General, as head of the Department of Law and Public Safety, and the County Prosecutors.**

10 In order to delineate the relationship between the offices of the Attorney General and the 21 County Prosecutors, it is necessary to examine their respective rights, powers, duties and responsibilities as set forth in the Constitution, statutes and judicial decisions. This can best be done by first examining their present-day relationship as defined by the Constitution of 1947 and statutes and then showing the historical development of both offices as they relate to present-day operations.

20 Under the Constitution of 1947, both the Attorney General and the County Prosecutor are constitutional officers. Art. V, Sec. IV, Par. 3 provides that the Attorney General shall be nominated and appointed by the Governor with the advice and consent of the Senate to serve during the term of office of the Governor. The county prosecutors, pursuant to Art. VII, Sec. 2, Par. 1, are also nominated and appointed by the Governor with the advice and consent of the Senate, for terms of 5 years or until the appointment and qualification of their successors. These constitutional provisions fail to furnish any guide or standard respecting the nature of the powers, rights, duties, and responsibilities of either officer (*Winne v. Bergen County*, 30 21 N. J. 311, 316 (1956)).

The Attorney General presently functions as head of the Department of Law & Public Safety pursuant to the Reorganization Act of 1948 (P.L. 1948, c. 439; N.J.S.A. 52:17B-1 *et seq.*). This legislation was enacted in accordance with the standards prescribed by Art. V, Sec. 4, Pars. 1 and 2 of the Constitution, which limit executive offices, departments and instrumentalities in state government to 40 principal departments that are classified according to their

major purposes of operation. Thus, the Attorney General continued to be vested with the power specifically imposed upon him as the head of the Department of Law established in 1944 (P.L. 1944, c. 20; N.J.S.A. 52:17A-1 *et seq.*) and in addition thereto, became the supervisor and head of the Division of Law, formerly the Department of Law (N.J.S.A. 52:17B-3 and 5); the Division of State Police (N.J.S.A. 52:17B-3 and 6); the Division of Alcoholic Beverage Control, formerly the Department of Alcoholic Beverage Control (N.J.S.A. 52:17B-3 and 15); the Division of Motor Vehicles, formerly the Department of Motor Vehicles (N.J.S.A. 52:17B-3 and 19); the Division of Weights & Measures, formerly the Department of Weights & Measures (N.J.S.A. 52:17B-3 and 23); and the Division of Professional Boards, formerly made up respectively of the State Board of Public Accountants, the State Board of Architects, the State Board of Registration and Examination in Dentistry, the State Board of Embalmers and Funeral Directors, the State Board of Professional Engineers and Land Surveyors, the State Board of Medical Examiners, the State Board of Nursing, the State Board of Optometrists, the State Board of Pharmacy, the State Board of Veterinary Medical Examiners and the State Board of Shorthand Reporting (N.J.S.A. 52:17B-3 and 29). 10

The Attorney General, as head of the Department of Law & Public Safety, thereby assumed responsibility to organize, supervise and maintain the operation of several separate governmental units with jurisdiction embracing both criminal and civil matters. 30

The Attorney General as the former head of the Department of Law continued to exercise the powers of that office pursuant to the specific terms of the Reorganization Act of 1948 (P.L. 1948, c. 439; N.J.S.A. 52:17B-5). The Department of Law was established in 1944 in order to:

“ \* \* \* accomplish economy and efficiency by centralizing, in one department, the facilities afforded by 40

the State for the rendering of legal services to the Governor and to all officers, departments, boards, bodies, commissions and instrumentalities of the State Government and to provide for the enforcement of the criminal law of the State by such department where the ends of justice so require." (Emphasis supplied; N.J.S.A. 52:17A-1.)

10 The Attorney General's powers under the 1944 Act, both civil and criminal, are enumerated in full. N.J.S.A. 52:17A-4 states that:

"The powers and duties of the Division of Law shall be the powers and duties now or hereafter conferred upon or required of the Attorney-General, either by the Constitution or by the common and statutory law of the State, and as specifically but not exclusively as detailed herein, to wit:

20 a. Be present at the seat of the government during the sessions of the Legislature;

b. Give to the Governor, to the members of the Senate and the General Assembly, and to all other officers, departments, boards, bodies, commissions and instrumentalities of the State Government, legal advice on such matters as they may from time to time require.

30 c. Examine and decide all legal matters submitted to him by the Governor or the Legislature and act for them in any matter in which they may be interested, and shall exclusively attend to and control all litigation and controversies to which the State is a party or in which its rights and interests are involved.

d. Carry out and enforce the provisions of the New Jersey Securities Law; also the Civil Rights Law.

40 e. Act as the sole legal adviser, attorney or counsel, notwithstanding the provisions of any other law, for all other officers, departments, boards, bodies, com-

missions and instrumentalities of the State Government in all matters other than those requiring the performance of administrative functions entailing the enforcement, prosecution and hearing of issues as imposed by law upon them; and represent them in all proceedings or actions of any kind which may be brought for or against them in any court of this State; and shall likewise interpret all statutes and legal documents, inspect and approve contracts and titles and otherwise control their legal activities.

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f. Render aid in the prosecution of the criminal business of any county at the written request of the county prosecutor; prosecute the criminal business of the State in a county having no county prosecutor; attend for the trial of homicide cases and other high crimes and misdemeanors, or for the prosecution of the criminal business of the State, in any county, on the written request of an assignment judge of the Superior Court or of the board of chosen freeholders of the county; and attend for the prosecution of a specific investigation or of a particular criminal case in any county on the written request of the Governor.

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g. Attend generally to all legal matters in which the State or any officer, department, board, body, commission or instrumentality of the State Government is a party or in which its rights or interests are involved;

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h. Enforce the provisions of the Constitution and all other laws of the State, as well as perform all of the duties conferred and imposed by law upon the Attorney-General."

Emphasis must be given to N.J.S.A. 52:17A-4 (f). There, the Attorney General is empowered to render aid in the prosecution of the criminal business of any county under certain specified conditions, namely: (1) at the written request of the county prosecutor, (2) where there is no county prosecutor, (3) in trial of homicide cases or other

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high crimes or misdemeanors or for the prosecution of the criminal business of the State on the written request of an assignment judge of the Superior Court or of the Board of Chosen Freeholders of any county, and (4) attend to the prosecution of a specific investigation or of a particular criminal case in any county on the written request of the Governor. In conjunction with this statutory power to render aid in the criminal business of a county, N.J.S.A. 52:17A-5 is pertinent.

“Whenever the Attorney-General, personally or by his deputies or assistants, shall attend in any county where there is no county prosecutor, or at the request of the Governor or of an assignment judge of the Superior Court or of the board of chosen freeholders or of the county prosecutor of the county, for the prosecution of the criminal business of the State in said county or of such part thereof as shall be designated in, or as shall fall within the general purview of the matters designated in, the written request therefor, the Attorney-General and his deputies or assistants shall have all the power and authority of the county prosecutor for prosecuting the criminal business of the State or such part thereof, including the investigation of alleged crimes and misdemeanors, the attendance before the criminal courts and grand juries of the county, the preparation and trial of indictments for crimes and misdemeanors and the representation of the State in all proceedings in criminal cases on appeal or otherwise in the courts of this State.

Whenever the Attorney-General shall have taken over the duties of a county prosecutor, he shall have all of the authority conferred by law upon the prosecutor, and he may appoint such temporary assistants as he may deem necessary, and shall also have power to appoint such aids, investigators or other personnel and clerical assistants as he shall deem necessary.

Whenever the criminal business or any part of the criminal business of any county is prosecuted by the

Attorney-General personally or by his deputies or assistants, there shall be paid, by the treasurer of the county, such sum for that special service as the assignment judge of the Superior Court of the county or a judge of the County Court of said county shall certify and fix, on the application of the Attorney-General; *provided*, that the compensation allowed shall not exceed that provided by law for the payment of the county prosecutor in said county for the same or similar services; *provided*, however, that no compensation so allowed shall affect the salary of the county prosecutor or assistant prosecutors if any in said county.

In prosecuting such criminal business, the Attorney-General shall have power to employ such investigators, clerical and other assistants and to incur such expenses as he shall determine, and the cost thereof, including the compensation allowed as aforesaid of any deputy or assistant attorneys-general who shall be employed or designated by the Attorney-General for that special purpose in addition to those regularly employed in the Division of Law, shall likewise be paid by the treasurer of the county when certified and fixed in the same manner.”

This section delineates the power and authority of the Attorney General when he assumes the role of the county prosecutor upon the happening of one of the conditions expressed in N.J.S.A. 52:17A-4(f).

Not only may the Attorney General render aid in the criminal business of the State under the conditions outlined above, through the county prosecutor, he may, as the head of the Department of Law & Public Safety, control the Division of State Police (N.J.S.A. 52:17B-4; R.S. 53:1-1 *et seq.*). This arm of the Department of Law & Public Safety possesses broad powers. R.S. 53:2-1 states that:

“The members of the State Police shall be subject to the call of the Governor. They shall be peace officers

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of the State, shall primarily be employed in furnishing adequate police protection to the inhabitants of rural sections, shall give first aid to the injured and succor the helpless, and shall have in general the same powers and authority as are conferred by law upon police officers and constables.

10 They shall have power to prevent crime, to pursue and apprehend offenders and to obtain legal evidence necessary to insure the conviction of such offenders in the courts. They shall have power to execute any lawful warrant or order of arrest issued against any person, and to make arrests without warrant for violations of the law committed in their presence, and for felonies committed the same as are or may be authorized by law for other peace officers.

20 They may cooperate with any other State department, or any State or local authority in detecting crime, apprehending criminals and preserving law and order; but the State Police shall not be used as a posse in any municipality except upon order of the Governor when requested by the governing body of such municipality; *provided, however,* that the Superintendent of State Police, or the person in charge thereof, shall, upon request made to him by the superintendent of elections of any county of this State, assign for use on any election day officers and troopers, not to exceed fifteen in number in any one county, to aid such superintendents of elections in the enforcement of the election laws of this State.

30 They may act as inspectors of motor vehicles and as wardens in the protection of the forests, and the fish and game of the State."

In addition to the powers already set forth, the Attorney General, together with other state and county officials, may exercise some control over local criminal matters pursuant to statutory authority. N.J.S.A. 2A:152-12 states that:

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"Whenever the mayor or other chief executive, or the chief of police or other head officer of police, of any municipality, shall be notified by a written communication delivered to him personally, signed by the governor or attorney general, or by a judge of the superior court or county court, or the prosecutor of the county in which the municipality is situate, stating that it is alleged, and that there is reason to believe it to be true, that there exists in 1 or more places in such municipality, designated in the communication, open, continued or notorious violation of any 1 or more sections of subtitle 10 of this title (§2A:85-1 et seq.), which section or sections shall be stated in such communication, by any person occupying or carrying on business in such place or places, whether such person be known or unknown, the mayor or other chief executive or the chief of police or other head police officer so notified shall take immediate, proper and efficient measures, by complaint and arrest or by raid and arrest or otherwise, to prevent the further continuance of such illegal practices and to bring any person so alleged to be offending to justice."

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The county prosecutor performs his statutory duties pursuant generally to N.J.S. 2A:158-1 *et seq.* The authority conferred upon him is contained in N.J.S. 2A:158-4 and 2A-158-5. N.J.S. 2A:158-4 provides that:

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"The criminal business of the State shall be prosecuted exclusively by the prosecutors, except in counties where, for the time being, there may be no prosecutor, or where the prosecutor desires the aid of the attorney general, or as otherwise provided by law."

N.J.S. 2A:158-5 provides that:

"Each prosecutor shall be vested with the same powers and be subject to the same penalties, within his county, as the attorney general shall by law be

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vested with or subject to, and he shall use all reasonable and lawful diligence for the detection, arrest, indictment and conviction of offenders against the laws.”

10 The above statutory outline generally describes the statutory powers and duties of the offices of the Attorney General and the County Prosecutor. The question arises as to whether, by judicial decision or otherwise, there are additional duties which presently devolve upon the Attorney General or the County Prosecutor and, if so, how they are related to each other.

20 It has already been noted that the Constitution of 1947 is limited insofar as it relates to the powers, functions and duties of each office. All that is indicated are the offices, the methods of appointment and terms. The same was true of the Constitution of 1844 in which both officers were mentioned, and in the Constitution of 1776 which provides for the office of the Attorney General only (*Public Utility Commission v. Lehigh Valley R.R.*, 106 N. J. L. 411 (E. & A. 1930)). Article XXII of the Constitution of 1776 stated that: “that the common law of England as well as so much of the statute law as have heretofore been practiced in this Colony, shall still remain in force until they shall be altered by a future law of the Legislature \* \* \*”. While the office of the Attorney General was provided for in the Constitution of 1776, many authorities in this state have 30 recognized that his powers and duties were those which the Attorney General had at common law both in England and in the Colony of New Jersey.

40 The Attorney General at common law was the chief legal representative of the Crown and his power in that position was almost unlimited. This principle has long been recognized by our Courts (*Public Utility Commission v. Lehigh Valley Railroad, supra*; *State v. Zabriskie*, 43 N. J. L. 369, 372 (Sup. Ct. 1881), rev'd on other grds., 43 N. J. L. 640 (E. & A. 1881); *Van Riper v. Jenkins*, 140 N. J. Eq. 99, 101 (E. & A. 1946)). But, as was stated

in *State v. Winne*, 12 N. J. 152 (1953), at p. 164, the prosecution of crime was historically a private matter. Thus, as a matter of practicality, the Attorney General representing the Crown did not exercise his powers in criminal cases except under unusual circumstances (see *Jackson, The Machinery of Justice in England*, 2d Ed. (1953); Chapter III, *Criminal Jurisdiction*, sec. 3, *The Process of Prosecution*, pp. 106-118; *People v. Miner*, 2 Lans. 396, 398 (N. Y. Sup. Ct. 1868); Book IV, *Blackstone's Commentaries*, 3rd Ed., pp. 245, et seq., Chapter XXIII of the *Several Modes of Prosecution*; *Belloit, The Origin of the Attorney General*, 25 Law Quarterly Review, 400; *W. S. Holdsworth, The Early History of the Attorney and Solicitor General*, 13 Ill. L. Rev. 602; IV *Stephen, Commentaries on the Laws of England* (14 Ed.) p. 331; *The Common Law Power of the State Attorneys-General to Supersede Local Prosecutors*, 60 Yale Law J. p. 559). In the colony of New Jersey the Attorney General exercised a broader authority in the 20 prosecution of criminal cases (see *State v. Winne, supra*, at p. 165). Independent research beyond authorities cited in the opinion of this Court bears out this contention. For instance, in 1713 the Colonial Legislature passed an act prohibiting the Attorney General from prosecuting persons other than by presentment of a grand jury or by information by a specific order of the Governor. The act provided that should this law be violated, a penalty of fifty pounds would be imposed. (13 *Ann.*, Chap. XIII; I *Nevill, Acts of the General Assembly of the Province of New Jersey*, 1703-1752, p. 27). To the same effect, see also 1 *George II, Chap. XLIV, 1 Id.*, p. 163. 30

Conceding that the first Attorney General of the State of New Jersey possessed and assumed considerable powers at the time of the adoption of the Constitution of 1776, we find nothing dealing with any legislation concerning his authority or office, either criminal or civil, until 1812, with the exception of a law passed in 1795 whereby the Attorney General was empowered to file an action in the nature of *quo warranto* by leave of the Supreme Court (*Paterson's New Jersey Laws, 1703-1799*, p. 177), and an act passed 40

Constitution of 1776, Article XII, he was appointed for a term of 5 years by the Council and General Assembly in Joint Meeting and commissioned by the Governor. Art. VIII, Sec. II, Par. 3 of the 1844 Constitution provided that the Attorney General be appointed by the Governor with the advice and consent of the Senate for a term of 5 years. Likewise, the prosecutors, pursuant to the same provision, were appointed in the same manner for the same term as the Attorney General. (See *Proceedings of the New Jersey State Constitutional Convention of 1844* (1942), pp. 481 to 510, as to fear of delegates to allow governor, instead of Legislature to appoint state officers; also, as to right of Attorney General to appoint prosecutor, p. 389.)

To conform with this constitutional provision on appointments, the Legislature in 1846 repealed P.L. 1822, p. 25 (Rev. 1846, p. 687, Par. 202) and P.L. 1823, p. 52 (Rev. 1846, p. 688, Par. 215), and provided, in the Revised Statutes of 1846, page 832, that:

“ \* \* \* there shall be appointed for each county some fit person, who shall be an attorney and counsellor at law, whose duty it shall be to prosecute the pleas of the state in such county, in the absence of the attorney general: *and further*, to do and perform such acts and things in behalf of the state, in and about such prosecutions, as the attorney general might or ought to do, if personally present.

\* \* \*

That the said prosecutors shall, severally, during the continuance of their appointments, be vested with the same powers, subject to the same penalties, and entitled to the same fees for services, in the absence of the attorney general, within their respective counties, as the attorney general is or shall by law be vested with, or subject or entitled to.

That in case of the absence of the attorney general and of the prosecutor as aforesaid, at any term of the court of oyer and terminer and general jail delivery,

or general quarter sessions of the peace, in any county, it shall be lawful for such court to appoint some fit person to prosecute the pleas of the state during said term; who, on taking the oath or affirmation above prescribed, shall be vested, during the said term, with the powers of a prosecutor of the pleas, and be entitled to the same fees and subject to the same penalties.”

This codification essentially formed the basis of the present Prosecutors Act, N.J.S. 2A:158-1 *et seq.* Section 3 of the 1812 Act was also repealed by the revision of 1846, p. 681, Par. 104, but incorporated into the above quoted enactment.

From the unambiguous language of these enactments, there is noted a gradual modification of the common law functions of the Attorney General. True, he still had the authority to prosecute the pleas of any county if he so wished. But, the Legislature, first to aid him, and then to supplement his authority in the county, created the office of the prosecutor, not only to act in the Attorney General's absence, but to do what the Attorney General “might or ought to do” if he were personally present. This is significant; the Legislature recognized the prosecutor as being independent and not subject to act only on order of the Attorney General.

In 1854, the Legislature enacted a law which had important bearing on both the Attorney General and the county prosecutor. While the Attorney General had formerly exercised general civil and criminal powers that had devolved upon him by Common Law and several statutory enactments, P.L. 1854, c. 58 was the first act which specifically defined his powers and duties and fixed his salary. Section 1 of this Act stated in part that:

“ \* \* \* it shall be the duty of the attorney general, when not incompatible with his other public duties, to be present at the seat of government during the session of the legislature, to give to the members of the Senate and Assembly, and to the Executive, and all

10 the officers of the state government, such legal information as they may from time to time request, examine and decide all cases submitted for his opinion by the state superintendent of common schools, attend in any county of the state for the trial of homicide cases, or other high crimes, on the written request of a justice of the supreme court, or of the board of chosen freeholders of any county, upon all applications for loans of the school fund, to inspect the title papers and determine the security offered, and attend generally to all matters in which the state is a party, or in which its rights and interests are involved \* \* \*

20 Also of significance is the appearance, for the first time in another part of this Act, of the mandatory language stating that the criminal business of the State shall be prosecuted exclusively by the county prosecutor except under limited circumstances. Section 3 of the Act states:

30 “ \* \* \* That after the passage of this act the criminal business of the state shall be prosecuted exclusively by the prosecutors of the pleas, except in counties where, for the time being, there may be no prosecutor, or where the prosecutor desires the aid of the attorney general; and when the attorney general prosecutes in a county having no prosecutor, he shall be entitled to the fees now fixed by law; and where he aids in the prosecution at the request of the prosecutor, he shall be entitled to one half of the fees; and when the attorney general attends the trial of any case at the request of a justice of the supreme court, or of the board of freeholders, as provided in the first section of this act, he shall be paid such sum for that special service as the justice of the supreme court of that judicial district shall certify and fix, to be paid by the collector of the county in which the cause is tried.”

40 Prior to this time, statutes gradually authorized prosecutors to exercise increased power. At the same time, the

Legislature neither limited or expanded the powers of the Attorney General, especially when dealing with matters of criminal prosecution. Here, however, the 1854 Act limits the Attorney General to carrying out the criminal business in a county in four instances; (1) in homicide cases, or other high crimes on the written request of a justice of the Supreme Court, or (2) the board of freeholders, (3) to attend to the general criminal business in the county where there was no county prosecutor, or (4) where the county prosecutor desired his aid (compare cases cited *infra*). 10

Essentially, P.L. 1854, c. 58 formed the basis for those powers and duties presently conferred and imposed upon the Attorney General as head of the Division of Law (N.J.S.A. 52:17-4 and 5; N.J.S.A. 52:17B-5).

20 After 1854, the power of the Attorney General to attend to criminal business was broadened in two instances. In 1911, P.L. 1911, c. 184, the Legislature supplemented P.L. 1854, c. 58 to authorize a justice of the Supreme Court to request the Attorney General, personally or through an assistant, to attend in any county for prosecuting the criminal business of the State, 20

30 “ \* \* \* including the investigation of alleged crimes and misdemeanors, the attendance before the criminal courts and grand juries of the county, the preparation of indictments and the trial of indictments for crimes and misdemeanors, and upon the like request to represent the State in proceedings on error in criminal cases in the Supreme Court and Court of Errors and Appeals.” 30

This Act became parts of N.J.S.A. 52:17A-4(f), 5 and N.J.S. 2A:158-14.

40 While the courts and county authorities could request the Attorney General to attend to the criminal business generally, it was not until 1944 that the Legislature authorized the Governor to request the Attorney General to 40

encroach upon the area of criminal business usually exclusively reserved to the prosecutors; and then in limited instances only. The Department of Law Act, P.L. 1944, c. 20 (N.J.S.A. 52:17A-1, *et seq.*) did empower the Governor to request the Attorney General “ \* \* \* to attend for the prosecution of a *specific investigation* or of a particular criminal case \* \* \* ” (See *Report of the New Jersey Commission on State Administrative Reorganization* (1944), Part 1).

From the above outlined statutory evolution of the offices of the Attorney General, it may be advanced that the historical development strongly indicates that the jurisdiction of the county prosecutor has been carved-out of the office of the Attorney General as it once existed. Judicial authority bulwarks this contention.

In *State ex rel. Clawson v. Thompson*, 20 N. J. L. 689 (Sup. Ct. 1846), the Court interpreted the 1823 statute (P.L. 1823, p. 52) that provided that county prosecutors be appointed by joint meeting of the Legislative Council and General Assembly when the Attorney General was unable to attend to the criminal business of a particular county. In this case, the prosecutor had been elevated to the position of the Attorney General and continued to carry out the responsibilities of the prosecutor. It was contended that the offices were incompatible and could not be held by the same man. The Court stated at p. 691 that:

“ \* \* \* From the tenor of this act, it is manifest that the legislature intended, that besides the office of Attorney General, whose right to prosecute the pleas extended to every county, there should be a prosecutor for each county; but that the latter officer was not to interfere, either with the right or duty of the Attorney General to prosecute, when he was personally present.

“ I take the true construction of this act to be, that the prosecution of the criminal pleas in the several counties shall be conducted by, and in the name of the

Attorney General, when he is personally present, and not by the prosecutors. Although the latter are not the deputies of the Attorney General, as they do not derive their appointments or authority from him, nor are they accountable to him for the faithful performance of their duties, nor removable at his will; yet his official duties are the same, as of deputies appointed under the act of 1812; and in the exercise of those duties and the enjoyment of the emoluments of their office, they are under the control of the Attorney General, whenever it is his pleasure to attend in person. The office of Prosecutor then is a subordinate office to that of Attorney General; and its exercise to a certain extent under his control; and it cannot therefore exist with the other, in the same person at the same time. If it were so, it would defeat the design of the legislature; who clearly intended, that in addition to the services of the Attorney General, as occasion might require, each county should be entitled to the services of a public prosecutor.”

The Court then went on to hold that the offices were incompatible and could not be held by the same person. It must be emphasized from the above language that prosecutors are only responsible to the Attorney General when he attends to criminal business in the county. This determination becomes more important when the two offices are considered in the light of the present statutory scheme (*cf. Winne v. Bergen County, supra*).

In *State v. Zabriskie*, 43 N. J. L. 369 (Sup. Ct. 1881), rev'd on other grds. 43 N. J. L. 640 (E. & A. 1881), the question arose as to whether, after a verdict had been rendered in a criminal case, the prosecutor could remove, by way of Certiorari, a criminal record to an appellate court. The Court held that the prosecutor could remove such a record to an appellate tribunal because, as a representative of the Attorney General, by statute, he performed duties and had rights similar to those of the Attorney General in England.

To the same effect is *State v. New Jersey Jockey Club*, 52 N. J. L. 493 (Sup. Ct. 1890). In this case, the county prosecutor applied for a writ of certiorari to move an indictment into the Supreme Court. The Court stated that the act empowering the county prosecutor to exclusively prosecute the criminal business of the state, except under certain statutory conditions (presently N.J.S. 2A:158-4):

10       “\* \* \* relieves the attorney general, and imposes upon the county prosecutor all the duties which the attorney general previously performed in the prosecution of indictments in such county.

      We are of the opinion that the right to apply for the writ is the right of the prosecutor, and not of the attorney general. \* \* \*” (at p. 494)

20       This case represents the first determination of the meaning of the terms giving the authority to the county prosecutor to be the exclusive person in the county to prosecute criminal business. The conclusion is clear that the Attorney General, except when there is no county prosecutor or when he was ordered to attend criminal business of the county by the Court, was excluded from acting under his powers that were derived from the common law of the Attorney General of England.

30       In *State ex rel. O'Reardon v. Wilson*, 4 N. J. Misc. 1008 (Sup. Ct. 1926), aff'd 104 N. J. L. 181 (E. & A. 1927), a Supreme Court Justice had requested the Attorney General to investigate and prosecute the criminal business in Morris County. The Attorney General, pursuant to this request, superseded the then county prosecutor and appointed a deputy in his stead. The Court, considering the right of the Attorney General to supersede the prosecutor in all respects and to incur expenses of that office, stated that by statute (P.L. 1911, p. 325, as amended P.L. 1922, c. 1) the Court had the right to request the attendance of the Attorney General in the county for the prosecution of

40       criminal business and the Attorney General, in turn, could

supersede the prosecutor. Therefore, the Court held that the superseded county prosecutor was without authority to act in the performance of the duties and that the employee could not seek expenses from him or this Court. The only recourse the employee had was to take up the matter with the Attorney General who in due course, without court intrusion, could determine whether the request was fair and just. This case indicates that when a county prosecutor is superseded, the Attorney General steps into his shoes to the extent of having exclusive jurisdiction over all criminal matters in the county.

      A case of extreme historical importance as to the relationship of the Attorney General and other state instrumentalities is *Public Utility Commrs. v. Lehigh Valley R.R. Co.*, 106 N. J. L. 411 (E. & A. 1930); a suit brought by the Public Utility Commission through its own appointed counsel to enforce a statutory penalty for non-compliance with an order of the Commission. The defendants challenged the right of the special counsel to commence the suit, contending that such an action should have been brought by the Attorney General. The counsel was appointed by the Commission pursuant to a statute. After fully reviewing the history of both statutory and judicial development of the office of the Attorney General and, likewise, the county prosecutor, the Court held that although the Attorney General was a constitutional officer, his rights and duties in both civil and criminal matters were subject to the power of the legislature. Therefore, the legislature had a right to delegate to the Public Utility Commission the power to sue in the name of the State for a penalty and to entrust the conduct of the suit to counsel appointed pursuant to the statute. This case is particularly pertinent because of the holding that even though the Attorney General had an absolute power in common law England as the chief law officer of the Crown to exercise the criminal and other state business in the name of the Crown, and the Attorney General in the Crown colony

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of New Jersey had a similar power, the office was subject to legislative fiat insofar as his rights, powers, responsibilities and duties were concerned. He no longer possessed the exclusive common law power to be the chief law officer of the state; his powers were subject to modification or repeal by statute.

10 *State v. McFeeley*, 136 N. J. L. 102 (Sup. Ct. 1947) considered the question as to whether the Attorney General, performing the duties of the Hudson County Prosecutor because the latter no longer held office (P.L. 1944, c. 20; N.J.S.A. 52:17A-5), could validly exercise the powers of the county prosecutor. The Court held that when the Attorney General exercised the powers of the county prosecutor he did not hold two incompatible offices but rather, as the Attorney General, performed the duties of the Prosecutor that were imposed upon him by statute when there was no prosecutor. This determination strengthens the contention that the legislature still recognized the Attorney General as the representative of the state in the prosecution of offenses and, subject to legislative authority, he could exercise the powers he originally had, such as that of enforcing the criminal laws by criminal prosecutions in any county in which there was a vacancy in the office of county prosecutor.

30 In *State v. Longo*, 136 N. J. L. 589 (E. & A. 1947, an assistant prosecutor had been found guilty by a trial court of perpetrating a fraud upon the court and jury during the course of a criminal prosecution. Subsequently, the assistant prosecutor, together with the prosecutor, went out of office, and the Attorney General, because of the vacancy (N.J.S.A. 52:17A-5) had taken over the prosecutor's duties. While the Attorney General acted as county prosecutor an application for a new trial was made. The assistant prosecutor testified at the hearing on the motion, and after a new trial had been granted, the assistant prosecutor attempted, in his individual capacity, to remove the record of the trial court by way of *certiorari*, to review

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the order of new trial. The Court of Errors and Appeals, in reviewing the position of the Attorney General and the prosecutor, rejected an assertion that a private individual had a right to have a court interfere with the function of the criminal business of this state which, by statute is done exclusively by the county prosecutor, or the Attorney General under certain conditions. The Court stated at p. 592 that:

10 "The Attorney-General and the several prosecutors of the pleas are constitutional officers (article 7, section 2, paragraph 3). Their duties are not defined by the constitution but are left, by necessary implication, for definition by the legislature. *Public Utility Commissioners v. Lehigh Valley Railroad Co.*, 106 N. J. L. 411; *O'Reardon v. Wilson*, 4 N. J. Mis. R. 1008, 1011. A prosecutor of the pleas is empowered by statute (R.S. 2:182-1), except as otherwise provided by law, to prosecute the pleas of the state in his county and to do and perform such acts and things in behalf of the state in and about such prosecution as were formerly done and performed by the Attorney-General; and (R.S. 2:182-4) 'the criminal business of the state shall be prosecuted exclusively by the prosecutors of the pleas, except in counties where, for the time being, there may be no prosecutor, or where the prosecutor desires the aid of the attorney-general or as otherwise provided by law.' The Attorney-General, among his other duties, is empowered (R.S. 52:17A-4(b), chapter 20, Pamph. L 1944) to prosecute the criminal business of the state in a county having no prosecutor or render aid in a prosecution at the request of the prosecutor and may be called upon by a Justice of the Supreme Court to prosecute the criminal business of the state therein, and to represent the state in proceedings on error in criminal cases in the Supreme Court and the Court of Errors and Appeals, and (R.S. 52:17A-5) in functioning in a county shall have *all the power and*

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*authority of the prosecutor including the representing of the state in all proceedings in criminal cases, on error or otherwise, in the Supreme Court and the Court of Errors and Appeals. \* \* \**

\* \* \*

10 "Thus, by statute, a county prosecutor is, within his county, the person who is to do such acts and things in behalf of the state as were formerly done by the Attorney-General; and specifically he, exclusively, shall prosecute the criminal business of the state except in those instances where the Attorney-General is called upon to act and in such instances the Attorney-General, because he is given *all* the power and authority of the prosecutor, including the representing of the state in all proceedings in criminal cases, on error or otherwise, in the Supreme Court and the Court of Errors and Appeals, has the exclusive authority so to act.

20 It is not open to question that what we are now concerned with is criminal business. The statute, in so far as it can do so, places the exclusive function of administering that business as we have said. It has full power to do so unless there is conflicting constitutional authority elsewhere."

The Court further held at p. 594 that:

30 " \* \* \* The Supreme Court has, constitutionally, the ancient powers of the King's Bench unless the same have been taken away or delegated elsewhere; but we are without supporting authorities on the proposition that the Supreme Court, by reason of succeeding to the jurisdiction of the King's Bench, holds the power of removing or supplanting a Prosecutor of the Pleas or the Attorney-General. And, because of the theory of the English people that enforcement of the criminal laws lay with the Crown, we doubt the existence of any common law jurisdiction in the King's Bench to oust

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the officers of the Crown by placing the control of criminal business, or any part of it, in a private person. *Vide Black. Com. Book IV, p. 2; Book I, p. 268; Book III, p. 28*—"the King's attorney general;" *State v. Zabriskie*, 43 N. J. L. 369; *Public Utility Commissioners v. Lehigh Valley Railroad Co., supra.*"

And, at page 596, that:

10 " \* \* \* We find that the Supreme Court did not have jurisdiction to take, in that manner, the criminal business of the state away from the Prosecutor of the Pleas, or, in his stead, from the Attorney-General, and to place it in the hands of a private citizen. In any event, it was an imprudent exercise of discretion to award the writ to one whose acts as a public officer had been adjudged fraudulent and constituted the nub of the controversy."

20 These cases, representing a complete examination of judicial rulings in this state on the extent of the powers of the Attorney General and the county prosecutor as they relate to each other, are convincing. There exists a positive declaration that, under separate factual circumstances, although at Common Law the Attorney General did in fact possess a broad power over criminal matters, his powers and duties were, and are now, subject to the power of the Legislature. Such being the case, the Legislature may empower the prosecutor, a constitutional officer with powers and duties that occupy a field of jurisdiction formerly held by the Attorney General even to the point of vesting authority in the Prosecutor to conduct the criminal business of the state in his county to the exclusion of the Attorney General.

30 While we have dealt generally with the powers of the Attorney General and the prosecutor to attend to the criminal business of the State and have seen the gradual strengthening of the prosecutor's jurisdiction, we have left

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for discussion at this time another distinct duty of the prosecutor which at no time had been imposed as a statutory duty upon the Attorney General. This is the duty imposed upon the prosecutor not only to *prosecute* the criminal business in the county for the State, but also to use all reasonable diligence for the *detection and arrest* of offenders against the law. N.J.S. 2A:158-5, to repeat, states that:

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“Each prosecutor shall be vested with the same powers and be subject to the same penalties, within his county, as the attorney general shall by law be vested with or subject to, and he shall use all reasonable and lawful diligence for the detection, arrest, indictment and conviction of offenders against the laws.”

20 This particular duty originated in the Revision of 1874 as part of the criminal procedure section of the Revised Statutes passed by the Legislature at that time. A review of the common law and, in turn, New Jersey judicial authorities reveals little or nothing respecting the duty to detect crime and arrest offenders as a distinct function of either the Attorney General or the county prosecutor.

30 Regarding the statutes as well as *State v. Winne*, 12 N. J. 152 (1953), there are several independent and unrelated offices which ~~remained~~ still have common law or statutory powers to perform such functions. Thus, in *State v. Winne*, *supra*, this Court recognized the common law power of the sheriff to exercise broad authority in the field of law enforcement even though he is not given any right to incur, by statute, expenses the way a county prosecutor does. There is nothing in our statutes respecting the duties and functions of the county sheriff. But, the Peace Officers Act (N.J.S. 2A:154-1) does require Judges of the Superior Court, County Court, County District Court or Juvenile and Domestic Relations Court, and Magistrates to “ \* \* \*  
40 cause to be kept all laws made or to be made for the conservation of the peace and for the good government of the

citizens and inhabitants of this State \* \* \*” within their respective jurisdictions and “ \* \* \* to apprehend, and to cause to come before them and imprison and punish all persons offending against such laws \* \* \*.” The sheriff, having been recognized as an arm of the Court and to some extent, an agent, would possess some powers of criminal jurisdiction so as to aid the above named officers who keep the peace (*cf. Virtue v. Board of Freeholders*, 67 N. J. L. 139 (Sup. Ct. 1901)).

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Recognizing that the sheriff would also, on behalf of the county which he serves, possess the power of a *posse comitatus* together with other Court and county officials, N.J.S. 2A:154-2 is revealing. This section states that:

“No sheriff or person authorized to appoint special deputy sheriffs, constables, marshalls, policemen or other peace officers in this State, for the purpose of preserving the public peace and preventing and quelling public disturbances, shall appoint as such any person who is not a qualified voter of this State.”

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Also important is an incidence of power given to court attendants. N.J.S. 2A:154-3 states that:

“All court attendants in the competitive class of civil service who have been or who may hereafter be appointed by the sheriff of any county in this state shall, by virtue of such appointment and in addition to any other power or authority, be empowered to act as officers for the detection, apprehension, arrest and conviction of offenders against the law.”

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Therefore, not only is there a limitation on the authority of the Attorney General respecting his power to control a county prosecutor, since the statutes and cases say that the county prosecutor is in most respects independent of the Attorney General in dealing with matters of criminal prosecution (*State v. Longo, supra; State v. Wilson, supra;*

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*Public Utility Commissioners v. Lehigh Valley R.R. Co., supra*); there is also a statutory lack of power in the Attorney General over the county prosecutor in the area of detection of crimes and arrest of criminals.

10 But, this does not mean that the Attorney General and prosecutor have no working relationship. The Attorney General still is regarded as the chief legal officer of the State (*Wilentz v. Hendrickson*, 133 N. J. Eq. 447 (Ch. 1943), *aff'd*. 135 N. J. Eq. 244 (E. & A. 1944); *State ex rel. Clawson v. Thompson*, 20 N. J. L. 689 (Sup. Ct. 1846); *Van Riper v. Jenkins*, 140 N. J. Eq. 99 (E. & A. 1946). To this extent, the Legislature has empowered prosecutors to make annual reports to the Attorney General about the performance of their duties and operations of their offices and they are specifically required to " \* \* \* make such other reports to the Attorney General as the Attorney General may require from time to time" (N.J.S.A. 52:17A-15). Thus, not only do prosecutors make an annual report, they make monthly general reports and quarterly reports on the gambling activities in their counties. Besides requiring regular reports, there is a constant liaison in specific investigations or cases where the Attorney General may require reports. The Attorney General, in turn, also coordinates reports on complaints received by him of matters within the prosecutor's jurisdiction, or reports that come from without the State through the Attorney General and down to the county prosecutor.

30 Besides serving as a coordinator with the prosecutors, the Attorney General, through cooperation, holds regular meetings to discuss mutual problems.

The Attorney General, through the State Police, aids the 21 prosecutors by supplying State Police personnel to conduct routine criminal investigations at the prosecutor's request. These assignments generally fall into 3 categories. In some instances where the county prosecutor has no personnel to assist an investigation, such as in Warren and

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Sussex Counties, all investigations are normally performed by an assigned State Police detective or investigator assigned to a station in those counties. State Police are also furnished as support to county detective forces. When there is a shortage of county detective personnel, as in Monmouth and Salem Counties, State Police act under the prosecutor in performing routine assignments.

10 Where there is no county prosecutor, pursuant to N.J.S.A. 52:17A-4(f) and 5, a Deputy Attorney General is empowered to act as a county prosecutor until one is appointed by the Governor with the advice and consent of the Senate.

Another instance of cooperation concerns the dismissal of old and outdated indictments by county prosecutors. This program was initiated by Chief Justice VANDERBILT. Thus, since the end of 1954, by arrangement between the Court, the prosecutors and the Attorney General, prosecutors commenced to dismiss 47,484 indictments pending as far back as 1837.

20 Under a different program that has been instituted, through cooperation between the Prosecutor and the Attorney General, no prosecutor can apply to a Superior Court for a dismissal of indictments that involve public officials, a member of the bar, prominent political persons or public issues unless the Attorney General gives his approval.

## POINT II

**The relationship between the Governor as head of the executive branch of the State government and the County Prosecutors.**

The New Jersey Constitution of 1947 provides in Art. V, Sec. I, Par. 1 that: "The executive power shall be vested in a Governor." The Governor is therefore the head of the executive branch of the State government. By numerous decisions in this State, the county prosecutors are State

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R.S. 40:11-1

July 9, 1970

LEGISLATIVE HISTORY OF R.S. 40:11-1  
(Residence of county and municipal officers;  
office not transferable; penalty; ouster)

COPY 2

This statute is quite old, dating to three laws passed in 1778, 1795 and 1817. These are as follows and copies are enclosed:

An act to prevent the farming out of public offices or transferring by deputation the powers annexed and incident to them; and for other purposes therein mentioned.

Passed October 8, 1778

An act to prevent the holding of appointments and commissions in certain cases, under this state and the United States at the same time.

Passed March 17, 1795

An act to ensure the faithful and impartial execution of office.

Passed January 27, 1817

These three laws were consolidated into Title 30, Chapter 21 of the Revised Statutes in 1846. A copy is enclosed of this revision.

This section was supplemented by an act of March 20, 1863 (P.L. 1863, p.409) and one of April 12, 1876 (P.L. 1876, p. 98, §1) and revised in 1877. A copy is enclosed of the 1877 revision which includes both of the acts.

The next revision was in 1937 and a copy is enclosed. The wording was not changed in the various drafts; it was enacted as originally proposed.

The most recent amendment is:

Laws 1953-C.37-S34.

This is one of a series of bills introduced by Senator Clapp on January 13, 1953 to make technical amendments to various titles of the statutes. There is no statement and it was not amended during passage.

JH/EH

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1778.

Sentence in high treason to be the same as in murder.

Establishment of the word state, instead of colony.

Laws of New Jersey 1703-1820 Pennington

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That when any person shall be duly convicted of high treason, the sentence awarded therefor, so far as respects the corporal punishment to be inflicted on the offender, shall be the same as in case of murder.

2. And whereas in the fifteenth section of the constitution of New-Jersey, it is directed and ordained, that all commissions shall run thus, "The colony of New-Jersey to A. B., &c. greeting;" and that all writs shall likewise run in the name of the colony: and that all indictments shall conclude in the following manner, videlicet, "Against the peace of this colony, the government and dignity of the same;" and whereas, since the framing of the said constitution, the honorable congress have declared the united colonies free and independent states: and also whereas, since the declaration of independency, the commissions and writs have run in the name of the state, and not of the colony of New-Jersey, and indictments have concluded against the peace of this state, and not of this colony, and some doubts may arise respecting the validity of commissions, writs and indictments, so as aforesaid worded; Be it therefore enacted by the authority aforesaid, That from and after the publication of this act, all commissions and writs, which, by the constitution are required to run in the name of the colony, shall run in the name of the state of New-Jersey; and all indictments shall conclude against the peace of this state, the government and dignity of the same; and that all commissions, writs and indictments, heretofore issued, preferred and exhibited, which have the word state, and not the word colony, shall be, and they hereby are declared to be good and effectual in the law.

PAT. 39.

AN ACT for taking charge of and leasing the real estates, and for forfeiting the personal estates of certain fugitives and offenders, and for enlarging and continuing the powers of commissioners appointed to seize and dispose of such personal estates, and for ascertaining and discharging the lawful debts and claims thereon.

Passed the 18th of April, 1778.

PAT. 39.

AN ACT to prevent the farming out of public offices, or transferring by deputation the powers annexed and incident to them; and for other purposes therein mentioned.

Passed the 8th of October, 1778.

Preamble.

WHEREAS no person, who holds an office in this state, under an appointment of the joint-meeting, is, by the constitution, authorized to let or farm out such office, or to depute any person to execute the same in his behalf or stead; and it being not only reasonable, but a great security against malepractices,

1778.

that every person holding an office, and in whom the trust thereof is reposed, should reside within this state, and execute such office; and also, that every person, holding an office, which relates to a county only, should reside within such county—

1. BE IT THEREFORE ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That each and every person holding, or who shall hereafter hold any office in this state, under an appointment of the joint-meeting, shall reside within this state, and execute such office, except the surrogate-general, who shall be at liberty to employ or appoint a deputy or deputies, and also, that every person holding an office, the authority and duties of which relate to a county only, shall reside within such county; and if any person holding, or who shall hereafter hold any office as aforesaid, shall at any time presume to let, farm out or transfer such office, or any part thereof, to any person or persons whatsoever, he shall for such offence forfeit the sum of five hundred pounds, to be recovered with full costs of suit, by any person, who will sue for the same, one half to the prosecutor, and the other half to the treasurer, for the use of the state, and shall, moreover, be liable to be removed from his office, by the council, on an impeachment of the assembly, as provided and set forth in the constitution.

Conditions on which public offices may be held.

Forfeiture.

3. And it is hereby further enacted, That if any secretary of this state shall at any time neglect or refuse to issue a commission to any person elected to any office within this state, requiring a commission from the governor, or shall take fees for any commission, where by law he is not entitled to fees, or, where he is entitled to fees, shall take more than by law he is entitled to take, he shall for every such offence forfeit the sum of fifty pounds, to be recovered, with costs of suit, by any person who will sue for the same, one half to the prosecutor, and the other half to the treasurer, for the use of the state.

Secretary neglecting his duty, what to forfeit.

4. And whereas it is highly expedient and proper, that every officer, resigning an office, should make the resignation to the department of government from which the office is derived, and whose duty it is to supply the vacancy when deemed necessary; Be it therefore enacted by the authority aforesaid, That in every case in which any officer, holding an office under the appointment of the joint-meeting, shall be desirous of resigning such office, the resignation shall be made during the sitting of the legislature, and to the members thereof in joint-meeting, by such officer in person attending for that purpose, or by letter or other writing under his hand, addressed to the joint-meeting; and that no resignation, made in any other way, or pretended to be made, shall be taken or deemed as valid or authentic, or in anywise allowed as an application for a discharge from office.

Mode of resigning offices.

1795.

PAT. 178.

AN ACT to prevent the holding of appointments and commissions; in certain cases, under this state and the United States at the same time.

Passed the 17th of March, 1795.

If a person holding an office under this state, be elected to congress, and accept, his office shall be vacated.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That every person holding a civil commission, or an appointment to an office within this state, and under the authority thereof, and shall hereafter be elected a member to represent this state in the senate or house of representatives in the congress of the United States, and shall accept of the appointment, or take his seat agreeably thereto, the commission or appointment of such person, under the authority of this state, within the same, shall be, and the same is hereby declared to be vacated and void.

If a member of the state legislature be elected to congress, and accept, his seat in the former shall be vacated.

2. And be it further enacted by the authority aforesaid, That if any member of the council and general assembly of this state shall be elected to represent this state in the senate or house of representatives of the United States, and shall accept thereof, or shall accept of any office or appointment under the government of the United States, his seat in the legislature of this state is hereby declared to be vacated, and an election to fill such vacant seat shall be held, as if said member had removed out of this state.

PAT. 179.

AN ACT for the prevention of waste.

Passed the 17th of March, 1795.

A guardian not to suffer or make waste of the inheritance of his ward.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That no guardian shall make or suffer any waste, sale or destruction of the inheritance of his ward, or of those things that he hath or may have in his custody; but shall safely keep the same inheritance to the use of the said heir, and keep and sustain the houses, gardens and other things pertaining to the same lands, by and with the issues and profits thereof, and shall deliver the same to his ward, when he comes to his full age, in as good order and condition at least as such guardian received the same, and shall answer to such heir for the residue of such issues and profits of the same inheritance by a lawful account, saving to the guardian his reasonable charges and expenses; and if any guardian shall make or suffer any waste, sale or destruction, of the inheritance of his ward, he shall lose the same custody, and shall recompense the ward thrice as much as the damages shall be assessed at by the jury.

If guardian suffer or make waste, the ward shall recover treble damages.

2. And be it enacted by the authority aforesaid, That no tenant for life or years, or for any other term, shall, during the term, make or suffer any waste, sale or destruction of houses, gardens, orchards, lands or woods, or any thing belonging to the tenements demised, without special license in writing, making mention that he may do it.

Tenant shall not commit or suffer waste.

1795.

3. And be it further enacted by the authority aforesaid, That any person may have a writ of waste out of chancery against him or her, who holdeth by curtesy, or otherwise, for term of life, or for term of years, or other term, or a woman in dower, as well as against guardians; and whoever shall be convicted of waste shall lose the thing or place wasted, and shall recompense thrice as much as the damages shall be assessed at by the jury.

Action of waste given against tenant by curtesy, in dower, for life or years.

4. And be it enacted by the authority aforesaid, That, in all actions of waste, if the defendant come not at the return of the original writ, he shall be attached, and if he come not at the return of the attachment, he shall be distrained, and if he come not after the distress, or if he come, and afterwards make default, the sheriff shall be commanded, that in his proper person, he take with him twelve good and lawful men of his county, and go to the place wasted, and inquire of the waste done, and return an inquest, and after the inquest returned, the plaintiff shall have judgment to recover the place wasted, and treble the damages found by the inquest.

Proceedings in waste, where the defendant does not appear, or makes default.

5. And be it enacted by the authority aforesaid, That when two or more, do or shall hold any lands, tenements, hereditaments, houses, woods, or other such thing, in common, as parceners, tenants in common, or joint-tenants, wherein none knows his or her several part, and some or one of them do waste, an action shall lie by a writ of waste; and when it shall come unto judgment, the defendant shall choose either to take his or her part in a place certain, by the sheriff and a jury to be assigned, or else to give such security, as the court shall allow and deem sufficient, not to commit any further waste, and to take nothing from thenceforth in the same lands, tenements, hereditaments, houses, woods, or other such thing, but as his or her partners will take; and if he or she choose to take his or her part in a place certain, the same shall be assigned to him or her in the part wasted, as it was before he or she committed the waste; but if the defendant shall not choose to take his or her part in a place certain, or if the waste exceed his or her proportion, the plaintiff shall recover against such defendant such damages as shall be found by the jury or inquest.

Proceedings in waste between parceners, tenants in common and joint-tenants.

6. And be it enacted by the authority aforesaid, That every heir, in whose ward soever he or she be, and whether he or she be in ward or not, and as well within age as of full age, shall have his or her recovery, by a writ of waste, for waste and destruction made in houses, lands, or tenements of his or her inheritance, as well in the time of his or her ancestor or ancestors, as at any other time after the inheritance descended or come to him or her, and shall be answered unto for the same, and shall recover the houses, lands or tenements wasted, and treble damages as aforesaid.

An heir may bring an action for waste committed during the life of his ancestor.

7. And be it enacted by the authority aforesaid, That where any tenant for term of life, or for another's life, or for term of years, or any other term, hath or shall let or grant his or her estate, in the lands and tenements demised to or held by him or

A tenant who lets or grants his estate to another, shall, if he take the profits, be liable to an action for waste

1816-7. ratify and confirm the proceedings of the medical society of New-Jersey, passed the first day of December, eighteen hundred and seven, be and the same are hereby repealed.

See supplement, 10th February, 1818.

PAM. 3.  
See ante 600.

A SUPPLEMENT to the act, entitled "An act directing the investment of certain moneys belonging to this state."

Passed the 29th of October, 1816.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That it shall be the duty of the treasurer of this state, and he is hereby authorized and directed, to cause to be transferred to the books of the loan-office of the United States, in this state, all stock of the United States heretofore purchased, or hereafter to be purchased, for the use of this state.

PAM. 4.

AN ACT to authorize aliens to purchase and hold real estate, in this state.

Passed the 22d of January, 1817.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That it shall and may be lawful for any alien, not being the subject of any state or power, which shall be at the time of such purchase, at war with the United States, to purchase lands, tenements, and hereditaments, within this state, and to have and to hold the same to him and her, and his or her heirs and assigns for ever, as fully to all intents and purposes, as any natural born citizen of the United States may or can do: *Provided always*, That nothing in this act shall be so construed, as to entitle any alien to be elected into any office of trust or profit in this state, or to vote at any town-meeting, or election of members of the legislative council and general assembly, sheriff and coroners within this state, or for representatives in congress, or electors of the president and vice-president of the United States.

2. *And be it enacted*, That all purchases of lands, tenements, and hereditaments within this state, which may have been made by aliens before the passing of this act, shall be deemed and held as good and effectual, to all intents and purposes as if the same had been made after the passing thereof.

PAM. 17.

AN ACT authorizing the courts of common pleas to award a tales de circumstantibus.

Passed the 23d of January, 1817.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That if in any of the inferior courts of common pleas in this state,

May award tales.

1817.

by reason of challenges, or default of jurors or otherwise, a sufficient number cannot be had of the jurors on the original panel, to try any issue or cause, then the said court is hereby authorized and required to award a tales de circumstantibus of persons present at the said court, and qualified according to law, to be joined to the other jurors, till the number of twelve be sworn; which talesmen shall be liable to the same challenges as the principal jurors, and thereupon the said court is hereby authorized to proceed to the trial of said issue or cause with such jury, which shall be as valid and effectual, as if the said issue or cause had been tried by twelve of the jurors returned on the original panel, and if any talesman, when present, be called, and shall not appear, or if he appear, shall wilfully withdraw from the court; then it shall be lawful for the said court to set a reasonable fine upon him, to be levied and made by distress and sale in the manner prescribed by the act, entitled "An act for the recovery of fines imposed upon defaulting jurors."

A SUPPLEMENT to the act concerning wills.

Passed the 24th of January, 1817.

PAM. 5.  
See ante 223.

BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That where any lands, tenements or hereditaments have been or shall be given or devised by any last will or testament, executed in due form of law, to the executors therein named, or any of them, to be sold, or have been or shall be thereby ordered or directed to be sold by the executors therein named, or any of them, and one or more of such executors shall die, or shall have died, before the death of the testator, and the surviving executors, or any of them, shall have accepted, and taken upon him, her or them, the execution of such last will and testament, then all such bargains and sales of any such lands, tenements or hereditaments so willed to be sold, made by the executor or executors who may survive such testator, and shall have heretofore accepted, and taken upon him, her or them, the execution of such last will and testament, shall be as good and effectual in the law as if all the executors named in the said will and testament had joined in such sale.

AN ACT to ensure the faithful and impartial execution of office. PAM. 6.

Passed the 27th of January, 1817.

1. BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same, That it shall not be lawful for the governor of this state, now chosen, or hereafter to be chosen, to accept of any office or appointment, under the government of the United States or any department or office of the same; and in case the governor of this state,

The governor not to accept any appointment under the United States,

1817.

now being, or hereafter appointed, shall accept any office under the government of the United States, or any department or office thereof, such acceptance shall be deemed an abdication and resignation of his office as governor, and all the authorities, powers and duties appertaining to the office of governor, as aforesaid, shall immediately devolve upon the vice-president of the council of this state, and be by him exercised as if the case had happened provided for in the eighth section of the constitution of this state: *Provided nevertheless*, That nothing hereby enacted shall be construed to prevent the said governor, for the time being, performing and exercising all the powers and duties required, or which may be required of him under the constitution or laws of the United States, or to prevent the governor aforesaid from accepting any appointment under the president of the United States, the object of which shall be the defence of this state and of the adjoining posts.

except for the defence of the state.

Justices of the supreme court not to accept certain appointments.

Certain appointments excepted.

2. *And be it enacted*, That it shall not be lawful for any justice of the supreme court of this state, hereafter to accept of any office or appointment under the government of the United States, or any department or office thereof, or any office or appointment in any body corporate or politic within this state, and in case any of the said justices of the supreme court, now or hereafter being, shall accept of any such office or appointment, such acceptance shall be deemed an abdication and resignation of said office of justice of the supreme court of this state, and his salary shall immediately cease: *Provided nevertheless*, That nothing in this act shall prevent any of the justices of the supreme court from accepting and exercising any office or appointment in any body corporate for the promotion of ecclesiastical, religious or literary purposes.

PAM. 13.  
See ante 125.

AN ACT further supplementary to an act, entitled "An act to incorporate a part of the township of Trenton, in the county of Hunterdon.

Passed the 3d of January, 1817.

1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That the mayor, recorder and aldermen of the city of Trenton, for the time being, shall severally and respectively have all the powers and authorities of justices of the peace of the state of New-Jersey; and that the said mayor, recorder and aldermen, or any three of them, of whom the mayor or recorder to be one, shall constitute a court of general quarter-sessions of the peace, in and for the said city of Trenton, with all the powers, authority and jurisdiction within the said city of Trenton, except the granting of tavern licenses, and excepting also the hearing and determining of appeals in pauper cases, with which the several courts of general quarter-sessions of the peace of the several counties of this state are or may be vested. That the said court shall be distinguished and known by and under the style and title of "The

Court constituted.

1817.

Court of General Quarter-Sessions of the Peace of the city of Trenton," and be a court of record, and hold four stated sessions within the said city in each year, to begin, one of them on the second Tuesday of the month of April; one other on the second Tuesday in the month of July; one other on the fourth Tuesday in the month of September; and one other on the second Tuesday in the month of January; the first sessions to be holden on the second Tuesday in the month of April next, with power to adjourn from day to day, and to hold special sessions when to the said mayor, recorder and aldermen, it shall appear necessary: that the clerk of the said city of Trenton, for the time being, shall be the clerk of the said court of general quarter-sessions of the said city, and shall perform the like duties, be entitled to receive the same fees and emoluments, and be subject to the same penalties and forfeitures as the clerks of the courts of general quarter-sessions of the peace of the several counties of this state: that the said court shall have a seal with such device as to the said court shall seem proper; and all writs and precepts issuing thereout shall be under the said seal, and tested in the name of the mayor or recorder, and be directed to the marshal or one of the constables of the said city, who are hereby authorized and required to serve and execute the same; and who shall perform the same duties, be entitled to the same fees and emoluments, and be subject to the same penalties and forfeitures as the sheriff and constables of the several counties of this state.

Clerk's duties and fees.

Marshal's duties and fees.

2. *And be it enacted*, That the said court of general quarter-sessions of the peace of the said city, shall have power to compel, in causes pending before the said court, the attendance of witnesses from any part of the state, by process of subpoena ad testificandum.

3. *And be it enacted*, That the annual town-meeting of the freeholders and inhabitants of the said city for the purpose mentioned in the act to which this a supplement, shall in future be held on the third Monday in April, instead of the time prescribed in the said act.

Annual town-meeting.

4. *And be it enacted*, That the powers, privileges and authorities granted by this act to the said mayor, recorder and aldermen of the city of Trenton, shall continue and be held by them during the will and pleasure of the legislature of this state, and nothing in this act shall be so construed as to prevent the repealing the same, and revoking and annulling the powers, privileges and authorities hereby granted.

Powers held during the pleasure of the Legislature.

5. *And be it enacted*, That this act shall be deemed and taken to be a public act, and as such shall be taken notice of by all persons and courts of justice whatsoever within this state.

Public act.

9. If in any action brought upon any such bond, as is mentioned in the last preceding section, the defendant, after judgment entered, and before execution executed, shall pay into the court where the action is or shall be brought, to the use of the plaintiff, such damages, so assessed by reason of all or any of the breaches of such covenants, agreements or conditions, together with cost of suit, a stay of execution of the judgment shall be entered on record; and if by reason of any execution executed, the plaintiff shall be fully paid or satisfied all such damages so assessed, with cost of suit and legal charges for executing the said execution, the body, lands, and goods and chattels of the said defendant shall be thereupon forthwith discharged from the said execution which shall likewise be entered on record; but in every such case the said judgment shall, notwithstanding, remain as a security to the plaintiff, his executors and administrators, for any other breaches which may afterwards happen of such covenants, agreements, or conditions; upon which the plaintiff, or his executors, or administrators may have a *scire facias* against the defendant, his heirs, devisees, terretenants, executors or administrators, assigning other breaches, to summon him or them, respectively, to show cause why execution should not be had or awarded on the said judgment; and thereupon damages shall be assessed as aforesaid, and execution issued accordingly; and upon payment or satisfaction, in manner aforesaid, of such future damages, costs and charges as aforesaid, all further proceedings on the said judgment shall be stayed, and so on as often as the same shall happen, and the defendant, his body, lands, goods and chattels, shall be discharged from the said execution.

On payment of damages assessed execution stayed.  
R. S. 801, § 7.

When discharge entered.

Plaintiff may have scire facias for future breaches.

[Assignment of bonds, see PRACTICE ACT, §§ 19, 20, 21. See title EVIDENCE, § 52].

Officers.

I. COMMISSIONS, RESIGNATIONS, ETC.

1. Residence and duty of officers.
2. Commission to be issued under penalty.
3. Resignations, how made.
4. Offices incompatible.
5. Justices of supreme court not to take office.
6. Notice of death of officer appointed by governor or joint meeting to be given to the governor.
7. Persons holding city or township offices to reside within the city or township. Exceptions.
8. Appointments in joint meeting.
9. Masters in chancery.
10. State directors, how appointed.
11. By whom vacancies to be filled.
12. Freehold qualification abolished.
13. When fiscal year of state officers to terminate.

II. OFFICIAL SEALS.

14. Seals and where deposited.
15. What to be seals of.
16. Instruments sealed held valid.

III. UNITED STATES SENATORS.

17. How appointed. Vacancies filled.

18. How commissioned.
19. When senators to be elected.
20. Mode of election.
21. Vacancy occurring before meeting of legislature.
22. Vacancy during session of legislature.
23. Election of senators certified.
24. Countersign of certificate.

IV. PRESIDENT OF SENATE.

25. President of senate to exercise powers of vice president of council.

V. STATE DIRECTOR.

26. Directors not to be stockholders.
27. To make annual report.
28. Not to receive office from companies.
29. To take oath.
30. Annual report to be made to governor on or before the 20th of January.

VI. PRIVATE SECRETARY OF THE GOVERNOR.

31. Governor may appoint private secretary.
32. Governor may employ assistance in executive department.

I. Commissions, resignations, etc.

An act relative to offices, commissions, and resignations.

Rev. 52, 208, 605.

Approved April 16, 1846.

R. S. 800.

1. That each and every person holding or who shall hereafter hold any office in this state, under the authority thereof, shall reside within this state and execute such office; and also, that every person holding an office, the authority and duties of which relate to a county only, shall reside within such county; and if any person holding or who shall hereafter

Residence and duty of officers.

- Penalty. hold any office as aforesaid, shall at any time presume to let, farm out or transfer such office, or any part thereof, to any person or persons whatsoever, he shall for such offence forfeit the sum of fifteen hundred dollars, to be recovered with full costs of suit, by any person who will sue for the same, one-half to the prosecutor, and the other half to the treasurer, for the use of the state. (See *Sec. 7*).
- Commission to be issued under penalty. 2. That if the secretary of state shall at any time neglect or refuse to issue a commission to any person elected or appointed to any office within this state, requiring a commission from the governor, or shall take fees for any commission, where by law he is not entitled to fees, or, where he is entitled to fees, shall take more than by law he is entitled to take, he shall for every such offence forfeit the sum of one hundred and fifty dollars, to be recovered, with costs of suit, by any person who will sue for the same, one-half to the prosecutor, and the other half to the treasurer, for the use of the state.
- Resignations, how made. 3. That in every case in which any officer holding an office under the appointment of the joint meeting, shall be desirous of resigning such office, the resignation shall be made during the sitting of the legislature by such officer, in writing under his hand, addressed to the joint meeting; and all other state and county officers desirous of resigning, shall send their resignations in writing, to the governor or person administering the government; which resignations shall be filed in the office of the secretary of state; and that no resignation made in any other way or pretended to be made, shall be valid.
- Offices incompatible. 4. That if any person holding a civil commission or an appointment to an office within this state, and under the authority thereof, shall hereafter be elected to represent this state in the senate or house of representatives in the congress of the United States, and shall accept of the appointment or take his seat agreeably thereto, the commission or appointment of such person, under the authority of this state, within the same, shall be and the same is hereby declared to be vacated and void.
- Justices of supreme court not to take office. 5. That it shall not be lawful for any justice of the supreme court of this state, hereafter to accept of any office or appointment in any body corporate or politic within this state; and in case any of the said justices of the supreme court, now or hereafter being, shall accept of any such office or appointment, such acceptance shall be deemed an abdication and resignation of said office of justice of the supreme court of this state, and his salary shall immediately cease; *provided nevertheless*, that nothing in this act shall prevent any of the justices of the supreme court from accepting and exercising any office or appointment in any body corporate for the promotion of ecclesiastical, religious or literary purposes.
- Proviso.

## Supplement.

Approved March 20, 1863.

P. L. 1863, p. 409.

Notice of death of officer appointed by governor or joint meeting to be given to the governor.

6. SEC. 1. That in case of the death of any officer holding an office which is to be filled by the governor and senate, or by the legislature in joint meeting, or by the people at an annual election, except city, township and ward officers, it shall be the duty of one of the judges of the inferior court of common pleas of the county in which such deceased officer shall reside at the time of his death, living nearest to the residence of such deceased officer, forthwith to give notice and information, in writing, to the governor, or person administering the government of this state, of the death of such officer and of the time of his death, according to the best of the knowledge and belief of such judge; which notices shall be filed by the governor, or person administering the government, in the office of the secretary of state, and it shall be the duty of the governor, or person administering the government, to communicate to the legislature, at the earliest opportunity, notice of the death of every officer whose office is to be filled by the legislature in joint meeting, and of every case in which, by reason of death, either house of the legislature is authorized to issue writs of election for supplying vacancies.

## Supplement.

Approved April 12, 1876. P. L. 1876, p. 98.

Amended. § 1.

7. SEC. 1. That the first section of the act to which this is a supplement, being in the following words, viz.: "each and every person holding or who shall hereafter hold any office in this state under the authority thereof, shall reside within this state and execute such office; and, also, that every person holding an office, the authority and duties of which relate to a county only, shall reside within such county; and if any person holding or who shall hereafter hold any office as aforesaid, shall at any time presume to let, farm out or transfer such office, or any part thereof, to any person or persons whatsoever, he shall for such offence forfeit the sum of fifteen hundred dollars, to be recovered with full costs of suit, by any person who will sue for the same, one-half to the prosecutor, and the other half to the treasurer, for the use of the state," be amended by adding the following words, to come in after the word "county" where it last occurs in said section: "and, also, that every person holding an office, the authority and duties of which relate to a city or township, shall reside within such city or township;" and that said section be further amended by adding the following proviso, to come in at the end of the section: "provided, that it shall not be lawful for any person to be appointed to, or hold any office in this state, or any county, city or township thereof, who has not the requisite qualifications for personally performing the duties of such office in cases where scientific engineering skill is necessary to the performance of the duties thereof; and any person holding, or attempting to hold any office in violation of this act, shall be considered as illegally holding or attempting to hold the same; and the supreme court of this state may give judgment of ouster against such person, upon information proceeded upon in such manner as is usual in cases of information in nature of a *quo warranto*, at the relation of any officer of the state, if the offending official be an officer of the state, or any officer of the county, city or township respectively of which the offending official is also an officer; *provided further*, that nothing in this act shall require any prosecutor of the pleas to reside within any of the counties wherein non-resident prosecutors are now or may be hereafter appointed by law; and *provided further*, that nothing herein contained shall require any town or township attorney or counsel to reside within such town or township.

Persons holding city or township offices to reside within the city or township.

Persons to have qualifications for personally performing duties of office.

Not to require prosecutors of pleas to reside within county.

Not to apply to township or city counsel.

## An act to prescribe and declare the mode of appointing certain officers.

Approved April 16, 1846. R. S. 838

8. SEC. 1. That all officers which, before and at the time when the present constitution of the state went into effect, were directed to be appointed by the council and general assembly, in joint meeting, and whose appointment is not otherwise specifically provided for by the present constitution, may be appointed by the senate and general assembly, in joint meeting.

Appointments in joint meeting.

9. SEC. 2. That the power of appointing masters in chancery shall continue in the chancellor, and be exercised by him as heretofore.

Masters in chancery.

10. SEC. 3. That the directors, on behalf of the state, of the Delaware and Raritan Canal and Camden and Amboy Railroad and Transportation companies, shall be appointed annually, by the senate and general assembly, in joint meeting, and commissioned by the governor, or person administering the government; and the term of office of every such director shall commence on the first day of April next after his appointment.

Directors of D. and R. Canal & C. and A. R. R. Companies.

11. SEC. 4. That if a vacancy, from any cause, should occur when the legislature is not in session, in the office of director so appointed, it shall be the duty of the governor, or person administering the government, to appoint a person to fill such vacancy until the next joint meeting of the legislature.

By whom vacancies to be filled.

## An act to abolish freehold qualification.

Approved February 28, 1851. P. L. 1851, p. 93.

12. SEC. 1. That it shall not be necessary hereafter for any person to possess a freehold, in order to qualify him to be elected to, and hold,

Freehold qualifications abolished.

TIT. XXX.  
CHAP. 21.

CHAPTER 21.

OF OFFICES, COMMISSIONS, AND RESIGNATIONS.

- |                                     |                               |
|-------------------------------------|-------------------------------|
| 1. Residence and duty of officers.  | 3. Resignations, how made.    |
| 2. Duty of secretary of state.      | 4. What offices incompatible. |
| " Commissions issued under penalty. | 5. Justices of supreme court. |

REV. 52, 208,  
605.

An Act relative to offices, commissions, and resignations.

Revision....Approved April 16, 1846.

Residence  
and duty of  
officers.

1. BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*, That each and every person holding or who shall hereafter hold any office in this state, under the authority thereof, shall reside within this state and execute such office; and also, that every person holding an office, the authority and duties of which relate to a county only, shall reside within such county; and if any person holding or who shall hereafter hold any office as aforesaid, shall at any time presume to let, farm out or transfer such office, or any part thereof, to any person or persons whatsoever, he shall for such offence forfeit the sum of fifteen hundred dollars, to be recovered with full costs of suit, by any person who will sue for the same, one half to the prosecutor, and the other half to the treasurer, for the use of the state.

Penalty.

Commission  
to be issued  
under penal-  
ty.

2. *And be it enacted*, That if the secretary of state shall at any time neglect or refuse to issue a commission to any person elected or appointed to any office within this state, requiring a commission from the governor, or shall take fees for any commission, where by law he is not entitled to fees, or, where he is entitled to fees, shall take more than by law he is entitled to take, he shall for every such offence forfeit the sum of one hundred and fifty dollars, to be recovered, with costs of suit, by any person who will sue for the same, one half to the prosecutor, and the other half to the treasurer, for the use of the state.

Resignations  
how made.

3. *And be it enacted*, That in every case in which any officer holding an office under the appointment of the joint meeting, shall be desirous of resigning such office, the resignation shall be made during the sitting of the legislature by such officer, in writing under his hand, addressed to the joint meeting; and all other state and county officers desirous of resigning, shall send their resignations in writing, to the governor or person administering the government; which resignations shall be filed in the office of the secretary of state; and that no resignation made in any other way or pretended to be made, shall be valid.

Offices in-  
compatible.

4. *And be it enacted*, That if any person holding a civil commission or an appointment to an office within this state, and under

TIT. XXX.  
CHAP. 22.

the authority thereof, shall hereafter be elected to represent this state in the Senate or House of Representatives in the congress of the United States, and shall accept of the appointment or take his seat agreeably thereto, the commission or appointment of such person, under the authority of this state, within the same, shall be and the same is hereby declared to be vacated and void.

5. *And be it enacted*, That it shall not be lawful for any justice of the supreme court of this state, hereafter to accept of any office or appointment in any body corporate or politic within this state; and in case any of the said justices of the supreme court, now or hereafter being, shall accept of any such office or appointment, such acceptance shall be deemed an abdication and resignation of said office of justice of the supreme court of this state, and his salary shall immediately cease; *provided nevertheless*, that nothing in this act shall prevent any of the justices of the supreme court from accepting and exercising any office or appointment in any body corporate for the promotion of ecclesiastical, religious or literary purposes.

Justices of  
supreme  
court not to  
take office.

Proviso.

CHAPTER 22.

OF SALARIES.

- |                                       |                                     |
|---------------------------------------|-------------------------------------|
| 1. Certain salaries fixed.            | 5. How members paid.                |
| 2. When to commence.                  | 6. Pay of secretary and clerk.      |
| 3. Pay of members of the legislature. | 7. Sergeant-at-arms and doorkeeper. |
| 4. Pay for extra sessions.            | 8. Engrossing clerks.               |

An Act to provide for the support of the government of this state, and to fix the salaries of public officers.

1845.  
PAMPH. 238.

Approved April 4, 1845.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey, as follows* :

SEC. 1. The several hereinafter named public officers of this state, for the time being, shall, respectively, be entitled to receive the annual salaries hereinafter mentioned, that is to say :

Salaries of  
certain offi-  
cers.

The governor of this state, at the rate of eighteen hundred dollars by the year.

Governor.  
1845, p. 241.

The chancellor, at the rate of eighteen hundred dollars by the year.

Chancellor.

The chief justice of the supreme court, at the rate of fifteen hundred dollars by the year.

Chief Justice.

Each of the associate justices of the supreme court, at the rate of fourteen hundred dollars by the year.

Justices.

All moneys so appropriated and raised shall be turned over to, and disbursed by, the treasurer of the commission, upon the order of such commission, for the purposes authorized by sections 40:10-2 to 40:10-8 of this title, and for no other purpose.

Source. L. 1924, c. 186, §4, p. 399 [1924 Suppl. §132-29].

**40:10-6. Treasurer's bond; expenses of commissioners.** The treasurer of the commission shall give bond to such municipality and to such county, with a surety company authorized to do business in this state, as surety, in a sum equal to the whole amount of moneys appropriated by the municipality and by the county, respectively, and the premiums therefor shall be paid from the funds so appropriated. The personal expenses of the commissioners in the work herein authorized shall also be paid from the funds so appropriated.

Source. L. 1924, c. 186, §5, p. 399 [1924 Suppl. §132-30].

**40:10-7. Maintenance of memorial buildings.** After such memorial shall have been completed the commission shall make and file with the governing body of the municipality, and with the board of chosen freeholders of the county, on or

before December first, in each year, an estimate of the cost of maintenance of such building or buildings for the fiscal year next ensuing, and such bodies shall appropriate, in equal shares, the amount of the estimated cost, and pay the amount so appropriated to the treasurer of such commission.

Source. L. 1924, c. 186, §6, p. 400 [1924 Suppl. §132-31].

**40:10-8. Contracts in excess of five hundred dollars; bids.** No commission created under the provisions of section 40:10-3 of this title shall enter into any contract for the doing of any work or for the furnishing of any materials, supplies or labor where the sum to be expended exceeds the sum of five hundred dollars, without first publicly advertising for bids therefor; and all contracts for the doing of work, or for the furnishing of materials, supplies or labor, shall be awarded to the lowest responsible bidder who shall furnish satisfactory proof of his ability to undertake and complete the work, and to furnish the materials, supplies or labor, and who shall offer sufficient surety for the faithful performance of the contract.

Source. L. 1924, c. 186, §7, p. 400 [1924 Suppl. §132-32].

## Chapter 11. OFFICERS AND EMPLOYEES.

### Section

- 40:11-1. Qualifications of county and municipal officers; residence; office not transferable; penalty.
- 40:11-2. Notice of death of certain officers.
- 40:11-3. Methods of resigning from office.
- 40:11-4. Discrimination by reason of age prohibited; exception.
- 40:11-5. Rights of certain employees transferred to other positions in certain counties.
- 40:11-6. Elective officer need not possess freehold.
- 40:11-7. De facto officers and employees; compensation.
- 40:11-8. Leave of absence with pay to disabled officers and employees; limitation.
- 40:11-9. Leave of absence with pay to disabled policemen and firemen; limitation.

**40:11-1. Qualifications of county and municipal officers; residence; office not transferable; penalty.** Except as otherwise provided by law, every person holding an office, the authority and duties of which relate to a county only, shall reside within the county, and every person holding an office, the authority and duties of which relate to a municipality, shall reside within the municipality.

If any person holding any such office shall at any time attempt to let, farm out or transfer such office, or any part thereof, to another, he shall forfeit the sum of fifteen hundred dollars, to be recovered with costs by any person who will sue therefor, one-half to the prosecutor, and the other half to the treasurer, for the use of the state.

No person shall be appointed to, or hold any office in any county or municipality, who has not the requisite qualifications for personally performing the duties of such office in cases where scientific engineering skill is necessary to the performance of the duties thereof.

### Section

- 40:11-10. Decreasing number of policemen and firemen; demotions; procedure.
- 40:11-11. Special list of demotions; priority in promotions.
- 40:11-12. Special list of removals; priority in appointments.
- 40:11-13. Persons demoted or removed before May 2, 1934; reappointment.
- 40:11-14. Salaries in certain counties and cities; power of civil service commission.
- 40:11-15. Deductions from salaries for group life insurance; petitions for.
- 40:11-16. Part payment by county or municipality; limitation.
- 40:11-17. Salaries not affected by census or reclassification act.

Any person holding or attempting to hold any office in violation of this section, shall be considered as illegally holding or attempting to hold it, and the supreme court may give judgment of ouster against him, upon information proceeded upon in such manner as is usual in cases of information in the nature of a quo warranto, at the relation of any officer of the county or municipality respectively of which the offending official is also an officer.

Nothing in this section shall require any prosecutor of the pleas to reside within any of the counties wherein nonresident prosecutors may lawfully be appointed.

Source. Rev. 1877, p. 743, §1, as am. by (supplement) Rev. 1877, p. 745, §7 [C. S. p. 3783, §1].

**40:11-2. Notice of death of certain officers.** Upon the death of an officer holding an office which is to be filled by the governor and senate, or by the legislature in joint meeting, or by the people at an annual election, except city, township and ward officers, one of the judges of the

April 3, 1964

R.S. 40:11A-1 et seq

COPY NO. 1

LEGISLATIVE HISTORY OF R.S. 40:11A-1 et seq

(Parking Authorities)

1948, Chapter 198 - 4478 -- Introduced April 26, 1948 by Mr. Mehorter.  
This bill had statement:

The purpose of this bill is indicated in its title, and the declaration of the necessity of the legislation in section two.

The greatly increased use of motor vehicles has caused serious traffic congestion on the streets of centers of population, which, in a large part, is attributed to the parking of motor vehicles on the street. The resulting slowing down of traffic movement is causing serious economic losses in many respects. Irreparable loss in valuations of property which cannot be readily reached by motor vehicles, free circulation of traffic for the fighting of fires, disposition of police forces, are conditions which result from the lack of sufficient off-street parking facilities. The situation is yearly becoming much more acute.

The bill is designed to set up a governmental agency which can cope with this problem. Under the proposed act, counties and municipalities may appoint parking authorities which are given all the necessary powers to obtain land and provide for constructions to create off-street parking facilities. The bill also provides for county and municipal aid for such programs.

Other progressive States have enacted or are planning similar legislation. With the greatly increased traffic expected in the post-war era, the necessity of enabling legislation to authorize a broad and State-wide approach to the problem is pressing.

Bill was amended on May 10, 1948 by the Assembly:

Mr. Mehorter offered the following amendment to Assembly Bill No. 478:

Amendment proposed to Assembly Bill No. 478:

Amend section 6, subsection (c), change the period at the end of line 20, page 7, to a semicolon and add the following: "provided, however, that no authority except by lease or concession to a private person, firm or corporation, shall within or on any such parking facilities or portions thereof sell, dispense or otherwise handle any product used in or for the servicing of motor vehicles."

Mr. Mehorter moved the adoption of the Assembly amendments to Assembly Bill No. 478.

1948 Assembly Minutes, page 793

searched the following without success: N.J. Municipalities, 1948, 1954.

1953, Chapter 37 - S34 -- Introduced January 13, 1953 by Mr. Clapp.  
Not amended during passage.  
Technical amendments to Title 40.

1953, Chapter 153 - A501 -- Introduced March 16, 1953 by Mr. Salzburg.  
Not amended during passage.  
No statement.

1954, Chapter 138 - S74 -- Introduced March 22, 1954 by Senator Hand.  
Amendments to original bill made in Senate were purely technical (removal of brackets).  
Bill had statement:

The purpose of this amendment to the Parking Authority Statute enacted in 1948, L. 1948, c. 198 as amended L. 1953, c. 153, is to enable municipalities and counties to contract with parking authorities so that revenues of the parking meters may be pledged as collateral for Parking Authority bond issues. The enactment of this amendment in no way deprives the political subdivision of any of their home rule attributes without their consent.

1958, Chapter 22 - S117 -- Introduced March 17, 1958 by Senators Fox and Stout.  
Not amended during passage.  
This bill had statement.

This bill amends the Parking Authority Law (P.L. 1948, c. 198) for the purpose of revising certain provisions of said law so as to assist financing and other operations of parking authorities in carrying out statutory and public purposes by clarifying the powers of such authorities and establishing the extent to which parking authorities may receive financial or other assistance from municipalities whether by contract or otherwise.

Under existing legislation and due to unfavorable bond marketing conditions, parking authorities have been unable to finance necessary parking projects without paying high rates of interest. The amendment would empower parking authorities to undertake and to finance parking projects as heretofore and to issue bonds of a parking authority payable from the revenues of a parking authority generally or from particular revenues or secured by pledge of moneys

SENATE, No. 74  
**STATE OF NEW JERSEY**

INTRODUCED MARCH 22, 1954

By Mr. HAND

Referred to Committee on Judiciary

An Act to amend and supplement the "Parking Authority Law," approved July 2, 1948 (P. L. 1948, c. 198).

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

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

3 2. Declaration of necessity of legislation. It is hereby determined and  
4 declared:

5 (a) That the greatly increased use by the public of motor vehicles of all  
6 kinds has caused serious traffic congestion on the streets of urban centers of  
7 population in the municipalities of this State.

8 (b) That the parking of an excessive number of motor vehicles on the  
9 streets has contributed to this congestion to such an extent as to interfere  
10 seriously with the primary use of such streets for the movement of traffic.

11 (c) That such parking prevents the free circulation of traffic in, through  
12 and from municipalities, impedes rapid and effective fighting of fires and the  
13 disposition of police forces and endangers the health, safety and welfare of  
14 the general public.

15 (d) That such parking threatens irreparable loss in valuations of prop-  
16 erty in the [city] municipalities which can no longer be readily reached by  
16A vehicular traffic.

EXPLANATION—Matter enclosed in bold-faced brackets [there] in the above bill is not amended and is intended to be omitted in the law.

20 (e) "Area of operation": (1) in the case of a parking authority of a  
21 municipality shall include the area of such municipality; (2) in the case of a  
22 parking authority of a county, shall include all the county except that portion  
23 which lies within the territorial limits of a municipality for which a parking  
24 authority has been created; with respect to any municipality which has not  
25 created a parking authority of a county shall not include such municipality  
26 within its area of operation, unless it has first secured the approval of such ac-  
27 tion by said municipality (such approval to be evidenced by an ordinance  
28 adopted by the governing body of the municipality).

29 (f) The term "Federal agency" shall mean and include the United States  
30 of America, the President of the United States of America and any depart-  
31 ment or corporation agency or instrumentality heretofore or hereafter cre-  
32 ated, designated or established by the United States of America.

33 (g) "Public body" shall mean the State, or any county, city, town, town-  
34 ship, borough, village, school district, authority or any other political subdivi-  
35 sion of the State.

36 (h) "Bonds" shall mean any bonds, notes, interim certificates, debentures,  
37 or other obligations issued by an authority pursuant to this chapter.

38 (i) The term "construction" shall mean and include acquisition and con-  
39 struction and the term "to construct" shall mean and include to acquire and  
40 to construct all in such manner as may be deemed desirable.

41 (j) The term "improvement" shall mean and include extension, enlarge-  
42 ment and improvement and the term "to improve" shall mean and include, to  
43 extend, to enlarge and to improve all in such manner as may be deemed de-  
44 sirable.

45 (k) The term "persons" shall mean and include natural persons.

46 (l) The term "project" shall mean [any structure or structures, facility  
47 or undertaking which the authority is authorized to acquire, construct, im-  
48 prove, maintain or operate under the provisions of this act] *any area or place*  
49 *operated or to be operated by the authority for the parking or storing of*  
50 *motor and other vehicles and shall, without limiting the foregoing, include all*

51 *real and personal property, driveways, roads, approaches, structures, ga-*  
52 *rages, meters, mechanical equipment, and all appurtenances and facilities*  
53 *either on, above or under the ground which are used or usable in connection*  
54 *with such parking or storing of such vehicles.*

55 (m) The term "facilities" shall mean buildings and structures above, at  
56 or below the surface of the earth, including *meters, equipment, entrances,*  
57 *exits, fencing and all other accessories above, at or below the surface of the*  
58 *earth necessary or desirable for the safety and convenience of the parking of*  
59 *vehicles.*

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

3 4. Any governing body may, by resolution in the case of counties or or-  
4 dinance in the case of municipalities, create a body corporate and politic and  
5 a political subdivision of the State to be known as the "Parking Authority  
6 ....." inserting the name of the municipality or county  
7 creating such authority. [The creating resolution in the case of counties and  
8 the creating ordinance in the case of municipalities may provide that no real  
9 property shall be acquired by the power of eminent domain without the con-  
10 sent of the governing body.] Such authority shall constitute an agency and  
11 instrumentality of the municipality or county creating it. Thereupon the  
12 governing body shall appoint 5 persons as commissioners of the authority.  
13 The commissioners who are first appointed shall be designated to serve for  
14 terms of 1, 2, 3, 4 and 5 years, respectively, from the date of their appoint-  
15 ment, but thereafter commissioners shall be appointed as aforesaid for a  
16 term of 5 years, except that all vacancies shall be filled for the unexpired  
17 term.

18 A municipality which has created a parking authority may with its con-  
19 sent, evidenced by ordinance, be included within the area of operation of a  
20 county authority. In such case the governing body of the county shall ratify  
21 the inclusion of such municipality before such area shall be included within  
22 the area of operation of such county authority.

23 ~~no municipality which has been included (with its consent) within the~~  
 24 ~~of any county parking authority shall hereafter create a municipal~~  
 25 ~~authority.~~  
 26 Upon the creation of any such authority by a municipality, the clerk of  
 27 the municipality shall certify a copy of the ordinance creating the parking  
 28 authority, and also a copy of the resolution appointing the commissioners  
 29 thereof, which documents shall be filed with the clerk of the county and be  
 30 recorded in records of certificates of incorporation. In like manner, the clerk  
 31 of the county shall certify the resolutions creating an authority and appoint-  
 32 ing the commissioners thereof and record such resolutions in the records of  
 33 certificates of incorporation for said county. In each case the clerk of the  
 34 county shall cause duplicate certified copies of said documents to be filed  
 35 forthwith with the Secretary of State.

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

3 Section 6. Powers of authority. The [An] authority shall constitute a public  
 4 body corporate and politic and a political subdivision of the State with the  
 5 same territorial boundaries as the boundaries of the municipality or county  
 6 creating the authority, exercising public and essential governmental func-  
 7 tions, and having all the powers necessary or convenient to carry out and  
 8 effectuate the purposes and provisions of this chapter, including the follow-  
 9 ing powers in addition to others herein granted:

10 (a) To sue and be sued; to have a seal and to alter the same at pleasure;  
 11 to have perpetual succession; to make and execute contracts and other instru-  
 12 ments necessary or convenient to the exercise of the powers of the authority;  
 13 and to make and from time to time amend and repeal by-laws, rules and reg-  
 14 ulations, not inconsistent with this chapter, to carry into effect the powers  
 15 and purposes of the authority.

16 (b) To conduct research respecting off-street parking and the necessity  
 17 of the fulfillment of the parking needs in relation thereto; to construct, im-  
 18 prove, maintain, operate, own, lease either in a capacity of lessor or lessee of

19. land and facilities to be devoted to the parking of vehicles of any kind.

20. (c) To lease portions of parking facilities for commercial use where in  
21 the opinion of the authority such leasing is desirable and feasible in order  
22 to assist in defraying the expenses of the authority; any such lease however  
23 to be granted on a fair competitive basis; provided, however, that no author-  
24 ity except by lease or concession to a private person, firm or corporation  
25 shall within or on any such parking facilities or portions thereof sell, dispense  
26 or otherwise handle any product used in or for the servicing of motor vehi-  
27 cles.

28 (d) Every authority is hereby granted and shall have and may exercise  
29 all powers necessary or convenient for the carrying out of the aforesaid pur-  
30 poses including but without limiting the generality of the foregoing the fol-  
31 lowing rights or powers.

32 (e) To acquire, purchase, hold, lease as lessee and use any franchise,  
33 property, real, personal or mixed, tangible or intangible, or any interest  
34 therein necessary or desirable for carrying out the purpose of the authority  
35 and to sell, lease as lessor, transfer and dispose of any property or interest  
36 therein at any time required by it; to acquire, by purchase, lease or otherwise  
37 and to construct, improve, maintain, repair and operate projects.

38 (f) To fix, alter, charge and collect *rents*, rates and other charges in the  
39 area served by its facilities, at reasonable rates to be determined exclusively  
40 by it *for the use of the facilities and projects of the authority and for all*  
41 *services sold, furnished or supplied directly or indirectly by the authority*  
42 *through said facilities and projects* and which shall, together with such  
43 grants, contributions or income from other sources, be sufficient to provide  
44 for the payment of the expenses of the authority, repair, maintenance and  
45 operation of its facilities and projects, the payment of the principal of and  
46 interest [on its] *on, and any premiums upon the redemption of, its bonds and*  
47 *other obligations, and to fulfill the terms and provisions of any agreements*  
48 *made with the purchasers or holders of any such bonds and other obligations.*

49 (g) To invest any funds held in reserve or sinking funds, or any funds

50 not required for immediate disbursement, in property or securities in which  
51 savings banks may legally invest funds subject to their control. [3] to pur-  
52 chase its bonds at a price not more than the principal amount thereof and  
53 accrued interest; all bonds so purchased to be cancelled.]

54 (h) Without limitation of the foregoing to borrow money and accept  
55 grants from and to enter into contracts, leases or other transactions with  
56 the State of New Jersey, any Federal agency, municipality, county or other  
57 public body.

58 (i) To pledge, hypothecate or otherwise encumber all or any of the ob-  
59 ligations of the authority.

60 (j) To enter into contracts with the State of New Jersey or any muni-  
61 pality, county or authority for the use of any project of the authority.

62 (k) To do all acts and things necessary or convenient for the promo-  
63 tion of its business and the general welfare of the authority to carry out  
64 the powers granted to it by this act or any other acts.

1 5. Section 7 of the act of which this act is amendatory is amended to read  
2 as follows:

3 7. Right of eminent domain. An authority shall have right to acquire  
4 by the exercise of the power of eminent domain any real property which it  
5 may deem necessary for its purposes under this chapter after the adoption  
6 by it of a resolution declaring that the acquisition of the real property de-  
7 scribed therein is necessary for such purposes. [unless in the resolution or  
8 ordinance creating the authority it is provided that no real property shall be  
9 acquired in said manner without the consent of the governing body, in which  
10 case said power shall not be exercised without said consent.] Property al-  
11 ready devoted to a public use may be acquired in like manner provided that  
12 no real property belonging to a public body or any corporation itself possess-  
13 ing the power of eminent domain may be acquired without its consent.

Section 6 of the act of which this act is amendatory is amended to read as follows:

6. **Bonds: Power to issue.** An authority shall have the power to issue bonds from time to time in its discretion, for any of its corporate purposes. An authority shall also have power to issue refunding bonds for the purpose of paying or retiring bonds previously issued by it. An authority may issue such types of bonds as it may determine, including (without limiting the generality of the foregoing) bonds on which the principal and interest are payable: (a) exclusively from the income and revenues of the parking project financed with the proceeds of such bonds; (b) exclusively from the income and revenues of certain designated parking projects whether or not they are financed in whole or in part with the proceeds of such bonds; or (c) from its revenues generally. Any such bonds may be additionally secured by a pledge of any grant or contributions from the Federal Government, State or county, or municipality, or a pledge of any income or revenues of the authority, or a mortgage of any parking project, projects or other property of the authority. This act shall be complete authority for the issuance of bonds by an authority, and the provisions of any other law shall not apply to the issuance of such bonds. Whenever and for so long as any authority has issued and has outstanding bonds pursuant to this act, it shall be the mandatory duty of the authority to fix, charge and collect rents, rates and other charges in accordance with paragraph (f) of section 6.

7. Section 9 of the act of which this act is amendatory is amended to read as follows:

9. **Bonds: liability.** Neither the commissioners of an authority nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof. The bonds and other obligations of an authority (and such bonds and obligations shall so state on their face) shall not be a debt of the State or any political subdivision thereof *except the authority*, and neither the State nor any political subdivision thereof *except the authority* shall be liable thereon, nor in any event shall such bonds or obligations be payable out

10 of any funds or properties other than those of said authority. The bonds  
11 shall not constitute an indebtedness within the meaning of any constitutional  
12 or statutory debt limitation or restriction. Bonds of an authority are de-  
13 clared to be issued for an essential public and governmental purpose and to  
14 be public instrumentalities, and, together with interest thereon and income  
15 therefrom, shall be exempt from taxes.

1 8. Section 10 of the act of which this act is amendatory is amended to  
2 read as follows:

3 10. Bonds: Provisions. Bonds of an authority shall be authorized by its  
4 resolutions and may be issued in one or more series and shall bear such date  
5 or dates, mature at such time or times, bear interest at such rate or rates,  
6 not exceeding 6% per annum, be in such denomination or denominations, be  
7 in such form, either coupon or registered, carry such conversion or registra-  
8 tion privileges, have such rank or priority, be executed in such manner, be  
9 payable in such medium of payment at such place or places, and be subject  
10 to such terms of redemption (with or without premium) as such resolution,  
11 its trust indenture or mortgage may provide. The bonds of a parking au-  
12 thority may be sold by the parking authority at public or private sale [at  
13 such price or prices as the parking authority shall determine] upon sealed  
14 proposals to any financially responsible bidder including technical experts or  
15 agents referred to in section 5 of this act, either bidding alone or in conjunc-  
16 tion with others; provided, however, that the interest cost to maturity of the  
17 money received for any issue of bonds (computed according to standard tables  
18 of bond values) shall not exceed 6% per annum.

1 9. Section 11 of the act of which this act is amendatory is amended to  
2 read as follows:

3 11. Bonds: Validity. In case any of the commissioners or officers of the  
4 authority whose signatures appear on any bonds or coupons shall cease to  
5 be such commissioners or officers before the delivery of such bonds, such  
6 signatures shall, nevertheless, be valid and sufficient for all purposes, the  
7 same as if such commissioners or officers had remained in office until such

8 delivery. [Any provision of any law to the contrary notwithstanding, any  
 9 bonds issued pursuant to this act shall be freely negotiable.] All bonds  
 10 such under the provisions of this act are hereby made and declared to be  
 11 negotiable instruments under the negotiable instruments law of this State.  
 12 (Subtitle 1 of Title 7 of the Revised Statutes.)

1 10. Section 18 of the act of which this act is amendatory is amended to  
 2 read as follows:

3 18. Powers of authority pertaining to other governmental agencies. In  
 4 addition to the powers conferred upon any authority by other provisions of  
 5 this chapter, an authority is empowered to borrow money or accept contri-  
 6 butions; grants or other financial assistance from the Federal Government,  
 7 to take over or lease, or manage, any parking project or undertaking con-  
 8 structed or owned by any county or municipality and to these ends, to com-  
 9 ply with such conditions and enter into such mortgages, trust indentures,  
 10 leases, or agreements, as may be necessary, convenient or desirable. It is  
 11 the purpose and intent of this chapter to authorize every authority to do  
 12 any and all things necessary or desirable to secure the financial aid or co-  
 13 operation of the Federal Government, the State Government, or any county  
 14 or municipality in the undertaking, construction, maintenance, or operation  
 15 of any parking project by such authority. The rents, rates and fees to be  
 16 charged in the operation of a parking authority shall be regulated and deter-  
 17 mined solely by the authority.

1 11. Section 20 of the act of which this act is amendatory is amended to  
 2 read as follows:

3 20. Restriction on alteration of powers. The provisions of this act shall  
 4 constitute a part of any and all contracts entered into by an authority cre-  
 5 ated hereunder for the benefit and security of the creditors of such author-  
 6 ity, and the State of New Jersey does hereby pledge to and agree with any  
 7 person, firm or corporation or Federal agency subscribing to or acquiring  
 8 the bonds [to be] issued by the authority for the construction, extension,  
 9 improvement or enlargement of any project or facilities or part thereof that

10 the State of New Jersey will not limit or, after the rights hereby vested in  
 11 the authority, extend the holders of such bonds until all bonds at any time  
 12 issued together with the interest thereon and any premiums upon the re-  
 13 demption thereof are fully met and discharged. The State of New Jersey  
 14 does further pledge in the event that any Federal agency [and any other  
 15 Federal agency that to and agree with the United States] shall [construct  
 16 or] contribute or agree to contribute any funds for the construction, ex-  
 17 tension, improvement or enlargement of any project or any portion thereof,  
 18 the State of New Jersey will not alter or limit the rights and powers of the  
 19 authority in any manner which would be inconsistent with the continued  
 20 maintenance and operation of the project or the improvement thereof or  
 21 which would be inconsistent with the due performance of any agreements  
 22 between the authority and any such Federal agency and the authority shall  
 23 continue to have and may exercise all powers herein granted so long as the  
 24 same shall be necessary or desirable for the carrying out of the purposes  
 25 of this act and the purposes of the United States in the construction or  
 26 improvement or enlargement of the project or such portion thereof.

1 12. Section 23 of the act of which this act is amendatory is amended to  
 2 read as follows:

3 23. Aid by public bodies. For the purpose of aiding and co-operating in  
 4 the planning, undertaking, construction or operation of parking projects lo-  
 5 cated within the area in which it is authorized to act, any public body may  
 6 upon such terms, with or without consideration, as it may determine:

7 (a) Dispose of property interest. Dedicate, sell, convey or lease any of  
 8 its property to a parking authority.

9 (1) Any governing body may, by resolution in the case of counties  
 10 or ordinance in the case of municipalities, convey to an authority real  
 11 and personal property owned by the municipality or county for use by  
 12 the authority as a project or a part thereof.

13 (2) Any municipality or county may acquire by purchase or con-  
 14 demnation real property in the name of the municipality or county for

15 any project or for the widening of existing roads, streets, parkways, ave-  
16 nues or highways or for new roads, streets, parkways, avenues or high-  
17 ways to any project, or partly for such purposes and partly for other mu-  
18 nicipal or county purposes, by purchase or condemnation in the manner  
19 provided by law for the acquisition of real property by a municipality or  
20 county.

21 (3) Contracts may be entered into between a municipality or county  
22 and an authority providing for the property to be acquired by a munic-  
23 ipality or county and so conveyed, and the amounts, terms and condi-  
24 tions of payment to be made by an authority, provided, however, that the  
25 designation of parking areas and the location of parking meters shall be  
26 within the sole discretion of an authority. Such contracts may contain  
27 covenants by a municipality or county as to the road, street, parkway,  
28 avenue and highway improvements to be made by a municipality or  
29 county, including provisions for the installation of parking meters in  
30 designated streets of a municipality or county and for the removal of  
31 such parking meters in the event that such parking meters are not found  
32 to be necessary or convenient. Any such contract may pledge the revenues  
33 of such parking meters and any parking meters installed by a munic-  
34 ipality or county prior thereto to the authority. Such contracts may also  
35 contain provisions limiting or prohibiting the construction and operation  
36 by a municipality or county or any agency thereof in designated areas of  
37 public parking facilities and parking meters whether or not a fee or  
38 charge is made therefor. Any such contracts between a municipality or  
39 county and an authority may be pledged by such authority to secure its  
40 bonds, and may not be modified thereafter except as provided by the  
41 terms of the contracts or by the terms of the pledge. The governing body  
42 may authorize such contracts on behalf of a municipality or county, and  
43 no other authorization on the part of a municipality or county for such  
44 contracts shall be necessary. The local laws, resolutions, ordinances,  
45 rules and regulations of a municipality or county within which a project

50 is located shall apply to such project if so provided in any contract or  
51 with a municipality or county, and to the extent pro-  
52 vided in such contract.

53 (g) If the authority shall have the use and occupancy of any  
54 real property which it shall determine is no longer required by a project  
55 then, if such real property was acquired at the cost and expense of the  
56 municipality or county, the authority shall have power to surrender its  
57 use and occupancy thereof to the municipality or county, or, if such  
58 real property was acquired at the cost and expense of the authority,  
59 then the authority shall have power to sell, lease or otherwise dispose of  
60 said real property and shall retain and have the power to use the pro-  
61 ceeds of sale, rentals or other moneys derived from the disposition  
62 thereof for its purposes.

63 (h) Furnish facilities. Cause water, sewer, lighting and drainage fa-  
64 cilities, or other works which it is otherwise empowered to undertake to be fur-  
65 nished adjacent to or in connection with parking projects; provided, nothing  
66 in this chapter shall authorize the construction of any public utility service  
67 or facility which would be competitive with any existing public utility as the  
68 same is defined by section R. 8. 48:2-13 of the Title, Public Utilities;

69 (i) Furnish additional facilities. Furnish, dedicate, close, pave, install,  
70 grade, regrade, plan, or replan streets, roads, roadways, alleys, sidewalks or  
71 other places which it is otherwise empowered to undertake;

72 (j) Zoning. Plan or replan, zone or rezone any part of such public body;  
73 make exceptions from building regulations and ordinances and change its  
74 map;

75 (k) Agreements. Enter into agreements (which may extend over any  
76 period, notwithstanding any provision or rule of law to the contrary), with a  
77 parking authority or the Federal Government or any public body of the State  
78 of New Jersey respecting action to be taken by such public body pursuant to  
79 any of the powers granted by this act;

76 (f) Take additional steps. Do any and all things necessary or conven-  
77 ient to aid and cooperate in the planning, undertaking, construction or opera-  
78 tion of such parking projects;

79 (g) Furnish service. Cause services to be furnished to the parking au-  
80 thority of the character which such public body is otherwise empowered to  
81 furnish;

82 (h) Enter into agreements with a parking authority respecting the ex-  
83 ercise by such public body of its powers relating to the elimination, destruc-  
84 tion or removal of unsafe, insanitary or unfit buildings;

85 (i) Bonds. Purchase or legally invest in any of the bonds or other obli-  
86 gations of a parking authority and exercise all of the rights of any holder of  
87 such bonds.

88 (j) Incurring expense. In connection with any public improvements  
89 made by a public body in exercising the powers herein granted, such public  
90 body may incur the entire expense thereof. Any law or statute to the con-  
91 trary notwithstanding, any sale, conveyance, lease or agreement provided for  
92 in this section may be made by a public body without appraisal, public notice,  
93 advertisement or public bidding.

94 (k) *Moneys of an authority.* An authority shall appoint a treasurer,  
95 who may also act as secretary of the authority, and all moneys of an author-  
96 ity shall be paid to the treasurer of the authority. Such treasurer shall file a  
97 bond of indemnity with the authority in an amount sufficient to cover the mon-  
98 eys from time to time under his control. Such moneys shall be deposited in a  
99 separate bank account or accounts. The moneys in such accounts shall be  
100 paid out on checks of the treasurer on requisitions of the chairman of the au-  
101 thority or of such other person or persons as the authority may authorize to  
102 make such requisitions. All deposits of such moneys shall, if required by the  
103 treasurer or the authority, be secured by obligations of the United States or  
104 of the State of New Jersey of a market value equal at all times to the amount  
105 of the deposit, and all banks and trust companies are authorized to give such  
106 security for such deposits. The treasurer and his legally authorized repre-

108: resolution or order of the board and management from time to time to transmit the  
109: records and books of the authority, including its receipts, disbursements, con-  
110: tracts, leases, sinking funds, investments and other records and papers relat-

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111: ing to its financial standing; The authority shall have power, notwithstanding  
112: any provision of this paragraph, to contract with the holder of any of its

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113: bonds into the custody, collection, securing, investment and payment of any  
114: moneys of the authority, or any moneys held in trust or otherwise for the pay-  
115: ment of bonds or in any way to secure bonds, and to carry out any such con-  
116: tract notwithstanding that such contract may be inconsistent with the pro-  
117: visions of this paragraph. Moneys held in trust or otherwise for the  
118: payment of bonds or in any way to secure bonds and deposits of such moneys  
119: and trust companies are authorized to give such security for such deposits.

1 13. Whenever an authority, or any municipality or county which has ac-  
2 quired by purchase or condemnation real property for any project or for the  
3 widening of existing roads, streets, parkways, avenues or highways or for  
4 new roads, streets, parkways, avenues or highways to any project or partly  
5 for such purposes and partly for other municipal or county purposes, shall  
6 determine that it is necessary that any tracks, pipes, mains, conduits, cables,  
7 wires, towers, poles and other equipment and appliances (herein called "pub-  
8 lic utility facilities") of any public utility as defined in section 27:7-1 of the  
9 Revised Statutes in, on, along, over or under any project or any real prop-  
10 erty acquired as aforesaid, should be relocated in, or removed from, such  
11 project or real property acquired as aforesaid, the public utility owning or  
12 operating such public utility facilities shall relocate or remove the same in  
13 accordance with the order of such authority, municipality or county; provided,  
14 however, that the cost and expenses of such relocation or removal, including  
15 the cost of installing such public utility facilities in a new location, or new  
16 locations, and the cost of any lands, or any rights or interest in lands, or  
17 any other rights acquired to accomplish such relocation or removal, less the  
18 cost of any lands or any rights or interest in lands or any other rights of the

19 public utility paid to the public utility in connection with the relocation or  
20 removal of such property, shall be ascertained and paid for the authority,  
21 municipality or county making such order. In case of any such relocation  
22 or removal of public utility facilities, as aforesaid, the public utility owning  
23 or operating the same, its successors or assigns, may maintain and operate  
24 such facilities, with the necessary appurtenances, in the new location or new  
25 locations, for as long a period, and upon the same terms and conditions, as  
26 it had the right to maintain and operate such public utility facilities in their  
27 former location or locations.

1 14. All general or special laws, or parts thereof, inconsistent herewith  
2 are hereby declared to be inapplicable to the exercise of the powers, duties  
3 and obligations authorized under the provisions of this act.

1 15. This act shall take effect immediately.

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#### STATEMENT

The purpose of this amendment to the Parking Authority Statute enacted in 1948, L. 1948, c. 153 as amended L. 1953, c. 153, is to enable municipalities and counties to contract with parking authorities so that revenues of the parking meters may be pledged as collateral for Parking Authority bond issues. The enactment of this amendment in no way deprives the political subdivisions of any of their home rule attributes without their consent.

**SENATE COMMITTEE AMENDMENTS TO**

**SENATE, No. 74**

**STATE OF NEW JERSEY**  
**STATE OF NEW JERSEY**

**ADOPTED MAY 10, 1954**

**Amend page 4, section 3, lines 7 and 10, delete the brackets.**

**Amend page 7, section 5, line 7, delete the period and bracket.**

**Amend page 7, section 5, line 10, delete the bracket.**

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**SENATE, No. 74**

# STATE OF NEW JERSEY

INTRODUCED MARCH 22, 1954

By Mr. HAND

Referred to Committee on Judiciary

An Act to amend and supplement the "Parking Authority Law," approved July 2, 1948 (P. L. 1948, c. 198).

1 **ENACTED** by the Senate and General Assembly of the State of New  
2 Jersey:

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

3 2. Declaration of necessity of legislation. It is hereby determined and  
4 declared:

5 (a) That the greatly increased use by the public of motor vehicles of all  
6 kinds has caused serious traffic congestion on the streets of urban centers of  
7 population in the municipalities of this State.

8 (b) That the parking of an excessive number of motor vehicles on the  
9 streets has contributed to this congestion to such an extent as to interfere  
10 seriously with the primary use of such streets for the movement of traffic.

11 (c) That such parking prevents the free circulation of traffic in, through  
12 and from municipalities, impedes rapid and effective fighting of fires and the  
13 disposition of police forces and endangers the health, safety and welfare of  
14 the general public.

15 (d) That such parking threatens irreparable loss in valuations of prop-  
16 erty in the [city] municipalities which can no longer be readily reached by  
16A vehicular traffic.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

17 (e) That this parking crisis which threatens the welfare of the community  
18 can be reduced by providing sufficient off-street and on-street parking facilities  
19 properly located in the several residential, commercial and industrial areas  
20 of municipalities.

21 (f) That adequate provision of properly located terminal space for auto-  
22 mobiles is a public responsibility.

23 (g) That the parking problem cannot be remedied by regulatory proc-  
24 esses and cannot be effectively dealt with by private enterprise.

25 (h) That the establishment of parking authorities will promote the pub-  
26 lic safety, convenience and welfare and the necessity in the public interest for  
27 the provisions hereinafter enacted, is hereby declared as a matter of legisla-  
28 tive determination.

1 2. Section 3 of the act of which this act is amondatory is amondod to read  
2 as follows:

3 3. Definitions. The following terms, wherover used or referred to in this  
4 chapter, shall have the following respective meanings, unless a different mean-  
5 ing clearly appears from the context:

6 (a) "Authority" or "parking authority" or "authorities" or "parking  
7 authorities" shall mean any of the public corporations created by this chapter.

8 (b) "Municipality" shall mean any city of any class, any town, township,  
9 village, borough or any municipal subdivision of this State. "County" shall  
10 mean any county in the State. "The municipality" shall mean the particular  
11 municipality or municipalities for which a particular parking authority is  
12 created. "The county" shall mean the particular county for which a particu-  
13 lar parking authority is created.

14 (c) "Governing body" shall mean in the case of a municipality the com-  
15 mon council or the board of commissioners or the body managing its affairs,  
16 and in the case of a county the board of chosen freeholders.

17 (d) "Clerk" shall mean the clerk of the municipality or the clerk of the  
18 county, as the case may be, or the officer charged with the duties customarily  
19 imposed on such clerk.

20 (e) "Area of operation": (1) in the case of a parking authority of a  
21 municipality shall include the area of such municipality; (2) in the case of a  
22 parking authority of a county, shall include all the county except that portion  
23 which lies within the territorial limits of a municipality for which a parking  
24 authority has been created; with respect to any municipality which has not  
25 created a parking authority of a county shall not include such municipality  
26 within its area of operation, unless it has first secured the approval of such ac-  
27 tion by said municipality (such approval to be evidenced by an ordinance  
28 adopted by the governing body of the municipality).

29 (f) The term "Federal agency" shall mean and include the United States  
30 of America, the President of the United States of America and any depart-  
31 ment or corporation agency or instrumentality heretofore or hereafter cre-  
32 ated, designated or established by the United States of America.

33 (g) "Public body" shall mean the State, or any county, city, town, town-  
34 ship, borough, village, school district, authority or any other political subdivi-  
35 sion of the State.

36 (h) "Bonds" shall mean any bonds, notes, interim certificates, debentures,  
37 or other obligations issued by an authority pursuant to this chapter.

38 (i) The term "construction" shall mean and include acquisition and con-  
39 struction and the term "to construct" shall mean and include to acquire and  
40 to construct all in such manner as may be deemed desirable.

41 (j) The term "improvement" shall mean and include extension, enlarge-  
42 ment and improvement and the term "to improve" shall mean and include, to  
43 extend, to enlarge and to improve all in such manner as may be deemed de-  
44 sirable.

45 (k) The term "persons" shall mean and include natural persons.

46 (l) The term "project" shall mean [any structure or structures, facility  
47 or undertaking which the authority is authorized to acquire, construct, im-  
48 prove, maintain or operate under the provisions of this act] *any area or place*  
49 *operated or to be operated by the authority for the parking or storing of*  
50 *motor and other vehicles and shall, without limiting the foregoing, include all*

51 real and personal property, driveways, roads, approaches, structures, ga-  
52 rages, meters, mechanical equipment, and all appurtenances and facilities  
53 either on, above or under the ground which are used or usable in connection  
54 with such parking or storing of such vehicles.

55 (m) The term "facilities" shall mean buildings and structures above, at  
56 or below the surface of the earth, including meters, equipment, entrances,  
57 exits, fencing and all other accessories above, at or below the surface of the  
58 earth necessary or desirable for the safety and convenience of the parking of  
59 vehicles.

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

3 4. Any governing body may, by resolution in the case of counties or or-  
4 dinance in the case of municipalities, create a body corporate and politic and  
5 a political subdivision of the State to be known as the "Parking Authority  
6 ....., " inserting the name of the municipality or county  
7 creating such authority. The creating resolution in the case of counties and  
8 the creating ordinance in the case of municipalities may provide that no real  
9 property shall be acquired by the power of eminent domain without the con-  
10 sent of the governing body. Such authority shall constitute an agency and  
11 instrumentality of the municipality or county creating it. Thereupon the  
12 governing body shall appoint 5 persons as commissioners of the authority.  
13 The commissioners who are first appointed shall be designated to serve for  
14 terms of 1, 2, 3, 4 and 5 years, respectively, from the date of their appoint-  
15 ment, but thereafter commissioners shall be appointed as aforesaid for a  
16 term of 5 years, except that all vacancies shall be filled for the unexpired  
17 term.

18 A municipality which has created a parking authority may with its con-  
19 sent, evidenced by ordinance, be included within the area of operation of a  
20 county authority. In such case the governing body of the county shall ratify  
21 the inclusion of such municipality before such area shall be included within  
22 the area of operation of such county authority.

25. Any municipality which has been included (with its consent) within the  
26 area of operation of a county parking authority shall thereafter create a new  
27 municipal authority or authorities in relation to the parking of motor vehicles in  
28 that area.

29. Upon the creation of any such authority by a municipality, the clerk of  
30 the municipality shall certify a copy of the ordinance creating the parking  
31 authority, and also a copy of the resolution appointing the commissioners  
32 thereof, which documents shall be filed with the clerk of the county and be  
33 recorded in records of certification of incorporation. In like manner, the clerk  
34 of the county shall certify the resolutions creating an authority and appoint-  
35 ing the commissioners thereof and record such resolutions in the records of  
36 certification of incorporation for said county. In each case the clerk of the  
37 county shall cause duplicate certified copies of said documents to be filed  
38 forthwith with the Secretary of State.

1. 4. Section 6 of the act of which this act is amendatory is amended to  
2 read as follows:

3 6. Powers of authority. The [An] authority shall constitute a public  
4 body corporate and politic and a political subdivision of the State with the  
5 same territorial boundaries as the boundaries of the municipality or county  
6 creating the authority, exercising public and essential governmental func-  
7 tions, and having all the powers necessary or convenient to carry out and  
8 effectuate the purposes and provisions of this chapter, including the follow-  
9 ing powers in addition to others herein granted:

10 (a) To sue and be sued; to have a seal and to alter the same at pleasure;  
11 to have perpetual succession; to make and execute contracts and other instru-  
12 ments necessary or convenient to the exercise of the powers of the authority;  
13 and to make and from time to time amend and repeal by-law, rules and reg-  
14 ulations, not inconsistent with this chapter, to carry into effect the powers  
15 and purposes of the authority.

16 (b) To conduct research respecting off-street parking and the necessity  
17 of the fulfillment of the parking needs in relation thereto; to construct, im-  
18 prove, maintain, operate, own, lease either in a capacity of lessor or lessee of

19 land and facilities to be devoted to the parking of vehicles of any kind.

20 (c) To lease portions of parking facilities for commercial use where in  
21 the opinion of the authority such leasing is desirable and feasible in order  
22 to assist in defraying the expenses of the authority; any such lease however  
23 to be granted on a fair competitive basis; provided, however, that no author-  
24 ity except by lease or concession to a private person, firm or corporation  
25 shall within or on any such parking facilities or portions thereof sell, dispense  
26 or otherwise handle any product used in or for the servicing of motor vehi-  
27 cles.

28 (d) Every authority is hereby granted and shall have and may exercise  
29 all powers necessary or convenient for the carrying out of the aforesaid pur-  
30 poses including but without limiting the generality of the foregoing the fol-  
31 lowing rights or powers.

32 (e) To acquire, purchase, hold, lease as lessee and use any franchise,  
33 property, real, personal or mixed, tangible or intangible, or any interest  
34 therein necessary or desirable for carrying out the purpose of the authority  
35 and to sell, lease as lessor, transfer and dispose of any property or interest  
36 therein at any time required by it; to acquire, by purchase, lease or otherwise  
37 and to construct, improve, maintain, repair and operate projects.

38 (f) To fix, alter, charge and collect *rents, rates and other charges* in the  
39 area served by its facilities, at reasonable rates to be determined exclusively  
40 by it *for the use of the facilities and projects of the authority and for all*  
41 *services sold, furnished or supplied directly or indirectly by the authority*  
42 *through said facilities and projects* and which shall, together with such  
43 grants, contributions or income from other sources, be sufficient to provide  
44 for the payment of the expenses of the authority, repair, maintenance and  
45 operation of its facilities and projects, the payment of the principal of and  
46 interest [on its] *on, and any premiums upon the redemption of, its bonds and*  
47 *other obligations, and to fulfill the terms and provisions of any agreements*  
48 *made with the purchasers or holders of any such bonds and other obligations.*

49 (g) To invest any funds held in reserve or sinking funds, or any funds

50 not required for immediate disbursement, in property or securities in which  
51 savings banks may legally invest funds subject to their control; to pur-  
52 chase its bonds at a price not more than the principal amount thereof and  
53 accrued interest, all bonds so purchased to be cancelled.]

54 (h) Without limitation of the foregoing to borrow money and accept  
55 grants from and to enter into contracts, leases or other transactions with  
56 the State of New Jersey, any Federal agency, municipality, county or other  
57 public body.

58 (i) To pledge, hypothecate or otherwise encumber all or any of the ob-  
59 ligations of the authority.

60 (j) To enter into contracts with the State of New Jersey or any munici-  
61 pality, county or authority for the use of any project of the authority.

62 (k) To do all acts and things necessary or convenient for the promo-  
63 tion of its business and the general welfare of the authority to carry out  
64 the powers granted to it by this act or any other acts.

1 5. Section 7 of the act of which this act is amendatory is amended to read  
2 as follows:

3 7. Right of eminent domain. An authority shall have right to acquire  
4 by the exercise of the power of eminent domain any real property which it  
5 may deem necessary for its purposes under this chapter after the adoption  
6 by it of a resolution declaring that the acquisition of the real property de-  
7 scribed therein is necessary for such purposes unless in the resolution or  
8 ordinance creating the authority it is provided that no real property shall be  
9 acquired in said manner without the consent of the governing body, in which  
10 case said power shall not be exercised without said consent. Property al-  
11 ready devoted to a public use may be acquired in like manner provided that  
12 no real property belonging to a public body or any corporation itself possess-  
13 ing the power of eminent domain may be acquired without its consent.

1 ~~Section 8 of the act of which this act is amendatory is amended to read~~  
 2 ~~as follows:~~

3 ~~8. Bonds: Power to issue. An authority shall have the power to issue~~  
 4 ~~bonds from time to time in its discretion, for any of its corporate purposes.~~  
 5 ~~An authority shall also have power to issue refunding bonds for the purpose~~  
 6 ~~of paying or retiring bonds previously issued by it. An authority may issue~~  
 7 ~~such types of bonds as it may determine, including (without limiting the gen-~~  
 8 ~~erality of the foregoing) bonds on which the principal and interest are pay-~~  
 9 ~~able; (a) exclusively from the income and revenues of the parking project fi-~~  
 10 ~~nanced with the proceeds of such bonds; (b) exclusively from the income and~~  
 11 ~~revenues of certain designated parking projects whether or not they are fi-~~  
 12 ~~nanced in whole or in part with the proceeds of such bonds; or (c) from its~~  
 13 ~~revenues generally. Any such bonds may be additionally secured by a pledge~~  
 14 ~~of any grant or contributions from the Federal Government, State or county,~~  
 15 ~~or municipality, or a pledge of any income or revenues of the authority, or a~~  
 16 ~~mortgage of any parking project, projects or other property of the authority.~~  
 17 ~~This act shall be complete authority for the issuance of bonds by an author-~~  
 18 ~~ity, and the provisions of any other law shall not apply to the issuance of such~~  
 19 ~~bonds. Whenever and for so long as any authority has issued and has out-~~  
 20 ~~standing bonds pursuant to this act, it shall be the mandatory duty of the~~  
 21 ~~authority to fix, charge and collect rents, rates and other charges in accord-~~  
 22 ~~ance with paragraph (f) of section 6.~~

1 7. Section 9 of the act of which this act is amendatory is amended to read  
 2 as follows:

3 9. Bonds: Liability. Neither the commissioners of an authority nor any  
 4 person executing the bonds shall be liable personally on the bonds by reason  
 5 of the issuance thereof. The bonds and other obligations of an authority (and  
 6 such bonds and obligations shall so state on their face) shall not be a debt of  
 7 the State or any political subdivision thereof *except the authority*, and neither  
 8 the State nor any political subdivision thereof *except the authority* shall be  
 9 liable thereon, nor in any event shall such bonds or obligations be payable out

9  
10 of any funds or properties other than those of said authority. The bonds  
11 shall not constitute an indebtedness within the meaning of any constitutional  
12 or statutory debt limitation or restriction. Bonds of an authority are de-  
13 clared to be issued for an essential public and governmental purpose and to  
14 be public instrumentalities, and, together with interest thereon and income  
15 therefrom, shall be exempt from taxes.

1 8. Section 10 of the act of which this act is amendatory is amended to  
2 read as follows:

3 10. Bonds: Provisions. Bonds of an authority shall be authorized by its  
4 resolutions and may be issued in one or more series and shall bear such date  
5 or dates, mature at such time or times, bear interest at such rate or rates,  
6 not exceeding 6% per annum, be in such denomination or denominations, be  
7 in such form, either coupon or registered, carry such conversion or registra-  
8 tion privileges, have such rank or priority, be executed in such manner, be  
9 payable in such medium of payment at such place or places, and be subject  
10 to such terms of redemption (with or without premium) as such resolution,  
11 its trust indenture or mortgage may provide. The bonds of a parking au-  
12 thority may be sold by the parking authority at public or private sale [at  
13 such price or prices as the parking authority shall determine] upon sealed  
14 proposals to any financially responsible bidder including technical experts or  
15 agents referred to in section 5 of this act, either bidding alone or in conjunc-  
16 tion with others; provided, however, that the interest cost to maturity of the  
17 money received for any issue of bonds (computed according to standard tables  
18 of bond values) shall not exceed 6% per annum.

1 9. Section 11 of the act of which this act is amendatory is amended to  
2 read as follows:

3 11. Bonds: Validity. In case any of the commissioners or officers of the  
4 authority whose signatures appear on any bonds or coupons shall cease to  
5 be such commissioners or officers before the delivery of such bonds, such  
6 signatures shall, nevertheless, be valid and sufficient for all purposes, the  
7 same as if such commissioners or officers had remained in office until such

8 delivery. [Any provision of any law to the contrary notwithstanding, any  
 9 bonds issued pursuant to this act shall be freely negotiable.] All bonds is-  
 10 sued under the provisions of this act are hereby made and declared to be  
 11 negotiable instruments under the negotiable instruments law of this State.  
 12 (Subtitle 1 of Title 7 of the Revised Statutes.)

1 10. Section 18 of the act of which this act is amendatory is amended to  
 2 read as follows:

3 18. Powers of authority pertaining to other governmental agencies. In  
 4 addition to the powers conferred upon any authority by other provisions of  
 5 this chapter, an authority is empowered to borrow money or accept contri-  
 6 butions; grants or other financial assistance from the Federal Government,  
 7 to take over or lease, or manage, any parking project or undertaking con-  
 8 structed or owned by any county or municipality and to those ends, to com-  
 9 ply with such conditions and enter into such mortgages, trust indentures,  
 10 leases, or agreements, as may be necessary, convenient or desirable. It is  
 11 the purpose and intent of this chapter to authorize every authority to do  
 12 any and all things necessary or desirable to secure the financial aid or co-  
 13 operation of the Federal Government, the State Government, or any county  
 14 or municipality in the undertaking, construction, maintenance, or operation  
 15 of any parking project by such authority. *The rents, rates and fees to be*  
 16 *charged in the operation of a parking authority shall be regulated and deter-*  
 17 *mined solely by the authority.*

1 11. Section 20 of the act of which this act is amendatory is amended to  
 2 read as follows:

3 20. Restriction on alteration of powers. *The provisions of this act shall*  
 4 *constitute a part of any and all contracts entered into by an authority cre-*  
 5 *ated hereunder for the benefit and security of the creditors of such author-*  
 6 *ity, and the State of New Jersey does hereby pledge to and agree with any*  
 7 *person, firm or corporation or Federal agency subscribing to or acquiring*  
 8 *the bonds [to be] issued by the authority for the construction, extension,*  
 9 *improvement or enlargement of any project or facilities or part thereof that*

10 the State of New Jersey will not limit or alter the rights hereby vested in  
 11 the authority and in the holders of such bonds until all bonds at any time  
 12 issued together with the interest thereon and any premiums upon the re-  
 13 demption thereof are fully met and discharged. The State of New Jersey  
 14 does further pledge in the event that any Federal agency [and any other  
 15 Federal agency that to and agree with the United States] shall [construct  
 16 or] contribute or agree to contribute any funds for the construction, ex-  
 17 tension, improvement or enlargement of any project or any portion thereof,  
 18 the State of New Jersey will not alter or limit the rights and powers of the  
 19 authority in any manner which would be inconsistent with the continued  
 20 maintenance and operation of the project or the improvement thereof or  
 21 which would be inconsistent with the due performance of any agreements  
 22 between the authority and any such Federal agency and the authority shall  
 23 continue to have and may exercise all powers herein granted so long as the  
 24 same shall be necessary or desirable for the carrying out of the purposes  
 25 of this act and the purposes of the United States in the construction or  
 26 improvement or enlargement of the project or such portion thereof.

1 12. Section 23 of the act of which this act is amendatory is amended to  
 2 read as follows:

3 23. Aid by public bodies. For the purpose of aiding and co-operating in  
 4 the planning, undertaking, construction or operation of parking projects lo-  
 5 cated within the area in which it is authorized to act, any public body may  
 6 upon such terms, with or without consideration, as it may determine:

7 (a) Dispose of property interest. Dedicate, sell, convey or lease any of  
 8 its property to a parking authority.

9 (1) Any governing body may, by resolution in the case of counties  
 10 or ordinance in the case of municipalities, convey to an authority real  
 11 and personal property owned by the municipality or county for use by  
 12 the authority as a project or a part thereof.

13 (2) Any municipality or county may acquire by purchase or con-  
 14 demnation real property in the name of the municipality or county for

15 any project or for the widening of existing roads, streets, parkways, ave-  
16 nues or highways or for new roads, streets, parkways, avenues or high-  
17 ways to any project, or partly for such purposes and partly for other mu-  
18 nicipal or county purposes, by purchase or condemnation in the manner  
19 provided by law for the acquisition of real property by a municipality or  
20 county.

21 (3) Contracts may be entered into between a municipality or county  
22 and an authority providing for the property to be acquired by a munic-  
23 ipality or county and so conveyed, and the amounts, terms and condi-  
24 tions of payment to be made by an authority, provided, however, that the  
25 designation of parking areas and the location of parking meters shall be  
26 within the sole discretion of an authority. Such contracts may contain  
27 covenants by a municipality or county as to the road, street, parkway,  
28 avenue and highway improvements to be made by a municipality or  
29 county, including provisions for the installation of parking meters in  
30 designated streets of a municipality or county and for the removal of  
31 such parking meters in the event that such parking meters are not found  
32 to be necessary or convenient. Any such contract may pledge the revenues  
33 of such parking meters and any parking meters installed by a munic-  
34 ipality or county prior thereto to the authority. Such contracts may also  
35 contain provisions limiting or prohibiting the construction and operation  
36 by a municipality or county or any agency thereof in designated areas of  
37 public parking facilities and parking meters whether or not a fee or  
38 charge is made therefor. Any such contracts between a municipality or  
39 county and an authority may be pledged by such authority to secure its  
40 bonds, and may not be modified thereafter except as provided by the  
41 terms of the contracts or by the terms of the pledge. The governing body  
42 may authorize such contracts on behalf of a municipality or county, and  
43 no other authorization on the part of a municipality or county for such  
44 contracts shall be necessary. The local laws, resolutions, ordinances,  
45 rules and regulations of a municipality or county within which a project

46. is located shall apply to such project if so provided in any contract be-  
47. tween an authority and a municipality or county, and to the extent pro-  
48. vided in such contract.

49. (4) In case an authority shall have the use and occupancy of any  
50. real property which it shall determine is no longer required by a project  
51. then, if such real property was acquired at the cost and expense of the  
52. municipality or county, the authority shall have power to surrender its  
53. use and occupancy thereof to the municipality or county, or, if such  
54. real property was acquired at the cost and expense of the authority,  
55. then the authority shall have power to sell, lease or otherwise dispose of  
56. said real property and shall retain and have the power to use the pro-  
57. ceeds of sale, rentals or other moneys derived from the disposition  
58. thereof for its purposes.

59. (b) Furnish facilities. Cause water, sewer, lighting and drainage fa-  
60. cilities, or other works which it is otherwise empowered to undertake to be fur-  
61. nished adjacent to or in connection with parking projects; provided, nothing  
62. in this chapter shall authorize the construction of any public utility service  
63. or facility which would be competitive with any existing public utility as the  
64. same is defined by section R. S. 46:2-13 of the Title, Public Utilities;

65. (c) Furnish additional facilities. Furnish, dedicate, close, pave, install,  
66. grade, regrade, plan, or replan streets, roads, roadways, alleys, sidewalks or  
67. other places which it is otherwise empowered to undertake;

68. (d) Zoning. Plan or replan, zone or rezone any part of such public body;  
69. make exceptions from building regulations and ordinances and change its  
70. map;

71. (e) Agreements. Enter into agreements (which may extend over any  
72. period, notwithstanding any provision or rule of law to the contrary), with a  
73. parking authority or the Federal Government or any public body of the State  
74. of New Jersey respecting action to be taken by such public body pursuant to  
75. any of the powers granted by this act;

76 (f) Take additional steps. Do any and all things necessary or conven-  
77 tent to aid and cooperate in the planning, undertaking, construction or opera-  
78 tion of such parking projects;

79 (g) Furnish services. Cause services to be furnished to the parking au-  
80 thority of the character which such public body is otherwise empowered to  
81 furnish;

82 (h) Enter into agreements with a parking authority respecting the ex-  
83 ercise by such public body of its powers relating to the elimination, destruc-  
84 tion or removal of unsafe, insanitary or unfit buildings;

85 (i) Bonds. Purchase or legally invest in any of the bonds or other obli-  
86 gations of a parking authority and exercise all of the rights of any holder of  
87 such bonds.

88 (j) Incurring expense. In connection with any public improvements  
89 made by a public body in exercising the powers herein granted, such public  
90 body may incur the entire expense thereof. Any law or statute to the con-  
91 trary notwithstanding, any sale, conveyance, lease or agreement provided for  
92 in this section may be made by a public body without appraisal, public notice,  
93 advertisement or public bidding.

94 (k) *Moneys of an authority. An authority shall appoint a treasurer,*  
95 *who may also act as secretary of the authority, and all moneys of an author-*  
96 *ity shall be paid to the treasurer of the authority. Such treasurer shall file a*  
97 *bond of indemnity with the authority in an amount sufficient to cover the mon-*  
98 *ey from time to time under his control. Such moneys shall be deposited in a*  
99 *separate bank account or accounts. The moneys in such accounts shall be*  
100 *paid out on checks of the treasurer on requisitions of the chairman of the au-*  
101 *thority or of such other person or persons as the authority may authorize to*  
102 *make such requisitions. All deposits of such moneys shall, if required by the*  
103 *treasurer or the authority, be secured by obligations of the United States or*  
104 *of the State of New Jersey of a market value equal at all times to the amount*  
105 *of the deposit, and all banks and trust companies are authorized to give such*  
106 *security for such deposits. The treasurer and his legally authorized repre-*

107 *committees are authorized and empowered from time to time to examine the*  
 108 *accounts and books of the authority, including its receipts, disbursements, con-*  
 109 *tracts, leases, sinking funds, investments and other records and papers relat-*  
 110 *ing to its financial standing. The authority shall have power, notwithstanding*  
 111 *the provisions of this paragraph, to contract with the holders of any of its*  
 112 *bonds as to the custody, collection, securing, investment and payment of any*  
 113 *moneys of the authority or any moneys held in trust or otherwise for the pay-*  
 114 *ment of bonds or in any way to secure bonds, and to carry out any such con-*  
 115 *tract notwithstanding that such contract may be inconsistent with the pre-*  
 116 *vious provisions of this paragraph. Moneys held in trust or otherwise for the*  
 117 *payment of bonds or in any way to secure bonds and deposits of such moneys*  
 118 *may be secured in the same manner as moneys of an authority, and all banks*  
 119 *and trust companies are authorized to give such security for such deposits.*

1     13. Whenever an authority, or any municipality or county which has ac-  
 2 quired by purchase or condemnation real property for any project or for the  
 3 widening of existing roads, streets, parkways, avenues or highways or for  
 4 new roads, streets, parkways, avenues or highways to any project or partly  
 5 for such purposes and partly for other municipal or county purposes, shall  
 6 determine that it is necessary that any tracks, pipes, mains, conduits, cables,  
 7 wires, towers, poles and other equipment and appliances (herein called "pub-  
 8 lic utility facilities") of any public utility as defined in section 27:7-1 of the  
 9 Revised Statutes in, on, along, over or under any project or any real prop-  
 10 erty acquired as aforesaid, should be relocated in, or removed from, such  
 11 project or real property acquired as aforesaid, the public utility owning or  
 12 operating such public utility facilities shall relocate or remove the same in  
 13 accordance with the order of such authority, municipality or county; provided,  
 14 however, that the cost and expenses of such relocation or removal, including  
 15 the cost of installing such public utility facilities in a new location, or new  
 16 locations, and the cost of any lands, or any rights or interest in lands, or  
 17 any other rights acquired to accomplish such relocation or removal, less the  
 18 cost of any lands or any rights or interest in lands or any other rights of the

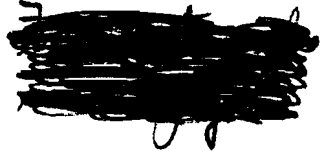
20 public utility grid to the public utility in connection with the relocation or  
21 removal of such property, shall be ascertained and paid by the authority,  
22 municipality or county making such order. In case of any such relocation  
23 or removal of public utility facilities as aforesaid, the public utility owning  
24 or operating the same, its successors or assigns, may maintain and operate  
25 such facilities, with the necessary appurtenances, in the new location or new  
26 locations, for as long a period, and upon the same terms and conditions, as  
27 if had the right to maintain and operate such public utility facilities in their  
28 former location or locations.

1     29. All general or special laws, or parts thereof, inconsistent herewith  
2 are hereby declared to be inapplicable to the exercise of the powers, duties  
3 and obligations authorized under the provisions of this act.

1     30. This act shall take effect immediately.

Copy 1

LEGISLATIVE HISTORY  
of  
Section 9 of the Walsh Act - R.S. 40:71-9



Laws 1911, Chapter 221, Assembly 321 - Mr. Walsh. Was introduced without statement.

The original bill is enclosed. It was amended several times during passage.

Assembly 321

Introduced	February 20, 1911
Assembly Amendment	April 4, 1911
2nd Assembly Amendment	April 4, 1911
3rd Assembly Amendment	April 11, 1911
4th Assembly Amendment	April 11, 1911
Senate Amendment	April 19, 1911

The amendments appear on enclosed photocopies of the Minutes and Journals.

In 1913, the section was amended by

Laws 1913, Chapter 282, Senate 59

The original bill, which had no statement, is enclosed. It was amended by Assembly Committee Substitute, having the same wording as the enacted law.

In the revision of 1937, the text became R. S. 40:71-9. We have no comment to this section.

The section was again amended in 1953

Laws 1953, Chapter 37, Senate 34, page 732, sec. 237

This was one of a series of formal amendments introduced by Mr. Clapp to make the statutes conform to the new Title 2A. The bill had no statement.

HP/jmg

ASSEMBLY, No. 321.

STATE OF NEW JERSEY.

INTRODUCED FEBRUARY 20, 1911.

By Mr. WALSH.

Referred to Committee on Municipal Corporations.

AN ACT relating to, regulating and providing for the government of cities, towns, boroughs and other municipalities within this State.

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

APPLICATION OF THIS ACT.

1 1. All cities, towns, boroughs and other municipalities of this State that here-  
2 inafter adopt the provisions of this act shall be governed as herein set forth, and  
3 wherever the word "city" or "cities" appears in this act it shall be construed to mean  
4 "town" or "towns," "borough" or "boroughs" or other "municipality" or "municipi-  
5 palities."

ORGANIZATION.

1 2. At the first election held in such city next after the adoption of the provi-  
2 sions of this act as herein provided, there shall be elected in such cities, by the duly  
3 authorized voters therein, five persons to be commissioners of such city, each of  
4 whom shall have been a citizen and resident of such city for at least three years im-  
5 mediately preceding his election as such commissioner, who shall serve as such  
6 commissioners until the third Tuesday in April in the fourth year following such  
7 election and until their successors are elected and shall have duly qualified;  
8 and every fourth year thereafter, at the regular municipal election in such city,

2

9 there shall be elected five commissioners with like qualifications to serve for the term  
10 of four years and until their successors have been elected and duly qualified.  
11 Should any vacancy occur among such commissioners the remaining commissioners  
12 shall, within thirty days thereafter, elect a properly qualified person to fill such va-  
13 cancy to serve for the unexpired term. The term of office of such commissioners  
14 first elected under the provisions of this act shall commence on the first Tuesday  
15 following such election and the term of office of all succeeding commissioners shall  
16 commence on the third Tuesday of April next ensuing after their election, at twelve  
17 o'clock, noon, and, upon the organizing of the commissioners in any such city,  
18 elected under this act, the City Council or other governing body or bodies theretofore  
19 acting as governing body or bodies in such city and having any other functions shall  
20 be ipso facto abolished, and the terms of all councilmen, or aldermen, and all other  
21 officers, whether elective or appointive, shall immediately cease and determine:  
22 *providing, however,* that nothing herein contained shall be construed to apply in any  
23 way to the tenure of office of any policeman, fireman or veteran.

#### DUTIES OF BOARD.

1       3. Every such city shall be governed by a board of commissioners consisting  
2 of five commissioners chosen as provided in this act, each of whom shall have the  
3 right to vote on all questions coming before the board of commissioners. Three  
4 members of the board of commissioners shall constitute a quorum and the affirma-  
5 tive vote of three members shall be necessary to adopt any motion, resolution or or-  
6 dinance, or pass any measure unless otherwise provided for in this act. Every  
7 resolution or ordinance shall be reduced to writing and read before the vote is  
8 taken thereon, and the vote upon every such motion, resolution or ordinance shall  
9 be by yeas and nays and shall be recorded. At the first meeting after their elec-  
10 tion, the said commissioners shall choose one of their number to preside at all meet-  
11 ings of the board of commissioners and he shall be designated "Mayor," but he  
12 shall have no power to veto any measure. Every resolution or ordinance passed  
13 by the board of commissioners must be in writing and signed by three commis-  
14 sioners.

## POWERS OF BOARD.

1     4. The board of commissioners shall have and possess all administrative, judi-  
2 cial and legislative powers and duties now had and possessed and exercised by the  
3 Mayor and City Council and all other executive or legislative bodies in said city,  
4 and have complete control over the affairs of the city adopting the provisions of  
5 this act. The executive, administrative and legislative powers, authority and  
6 duties in such city shall be distributed into and among five departments as follows:

- 7     1. Department of Public Affairs.
- 8     2. Department of Accounts and Finance.
- 9     3. Department of Public Safety.
- 10    4. Department of Streets and Public Improvements.
- 11    5. Department of Parks and Public Property.

12     The board of commissioners shall determine the powers and duties to be per-  
13 formed by each department and assign such powers and duties to the appropriate de-  
14 partments, and they shall prescribe the powers and duties of all officers and em-  
15 ployes, and they may assign particular officers and employes to one or more depart-  
16 ments and may require any officer or employe to perform duties in two or more  
17 departments, and make such other rules and regulations as may be necessary or  
18 proper for the efficient and economical conduct of the business of the city.

19     The Mayor shall be the director of the Department of Public Affairs, and the  
20 board of commissioners shall, at the first regular meeting after the election of its  
21 members, designate by majority vote one commissioner to be director of the De-  
22 partment of Accounts and Finance, one to be director of the Department of Pub-  
23 lic Safety, one to be director of the Department of Streets and Public Improve-  
24 ments, and one to be director of the Department of Parks and Public Property, and  
25 such designation may be changed whenever it appears that the public service would  
26 be benefited thereby.

27     The board of commissioners shall at the first meeting, or as soon as may be  
28 after organization, create such subordinate boards and appoint such officers as it may

29 deem necessary for the proper and efficient conduct of the affairs of the city. Any  
30 board created may be abated, or any officer or employe appointed by the board of  
31 commissioners may be removed from office at any time for cause, after public hear-  
32 ing, and such board of commissioners shall be the sole judge of the sufficiency of  
33 the cause of such removal.

34 The Mayor and board of commissioners shall have suitable offices and their total  
35 compensation shall be as follows: In cities having, by the last preceding State or  
36 National census, more than two hundred thousand population, the Mayor's salary  
37 shall be fifty-five hundred dollars, and that of each commissioner shall be five thou-  
38 sand dollars. In cities having by the last census a population of over ninety thou-  
39 sand and not exceeding two hundred thousand, the Mayor's annual salary shall be  
40 three thousand five hundred dollars, and that of each commissioner three thou-  
41 sand dollars. In cities having from forty thousand to ninety thousand population,  
42 the Mayor's annual salary shall be two thousand five hundred dollars, and that of  
43 each commissioner two thousand dollars. In cities having from twenty to forty  
44 thousand population, the Mayor's annual salary shall be one thousand eight hundred  
45 dollars, and that of each commissioner one thousand five hundred dollars. In cities  
46 having from ten to twenty thousand population, the Mayor's annual salary shall be  
47 one thousand five hundred dollars, and that of each commissioner one thousand two  
48 hundred dollars, and in cities having less than ten thousand population, the Mayor's  
49 annual salary shall be nine hundred dollars, and that of each commissioner six hun-  
50 dred dollars. Such salaries shall be payable in equal monthly installments.

51 The salary or compensation of all other officers and employes of the city shall  
52 be fixed by the board of commissioners and shall be payable monthly or at shorter  
53 period as they shall determine.

#### MEETINGS OF BOARD.

1 5. The board of commissioners shall designate the time of holding regular  
2 meetings, which shall be at least once a week, and special meetings may be called  
3 from time to time by the mayor or by two commissioners. All meetings of the

4 commissioners, whether regular or special, shall be open to the public, and any citi-  
5 zen may have access to the minutes upon application to the city clerk.

6 The mayor shall be president of the board and shall preside at its meetings and  
7 supervise all departments and report to the board for its action all matters requiring  
8 the attention of the board on any department. Director of the department of ac-  
9 counts and finance shall be vice-president of the board, and, in case of vacancy in the  
10 office of mayor, shall perform the duties of that office.

#### PASSAGE OF ORDINANCES AND FRANCHISES.

1 6. Every ordinance or resolution appropriating money, or ordering any street  
2 improvement, or sewer, or authorizing the making of any contract or granting any  
3 franchises, or the right to occupy or use the streets, highways, bridges or public  
4 places of the city for any purpose, shall be complete in the form in which it is finally  
5 passed and remain on file with the city clerk for public inspection at least two weeks  
6 before the final passage or adoption thereof. No franchises, or right to occupy or  
7 use the streets, highways, bridges or public places in any city shall be granted, re-  
8 newed or extended except by ordinance; and every ordinance shall be published in  
9 said city before being finally passed upon and must receive the approval, by vote,  
10 of four members before being finally adopted.

#### PROHIBITIONS UPON OFFICIALS.

1 7. No officer or employe, elected or appointed in any such city, shall be inter-  
2 ested, directly or indirectly, in any contract or job for work or materials, or the  
3 profits thereof, or services to be furnished or performed for the city, and no such  
4 officer or employe shall be interested, directly or indirectly, in any contract or job  
5 for work or materials or the profits thereof, or services to be furnished or per-  
6 formed, for any person, firm or corporation, operating interurban railway, street  
7 railway, gas works, water works, electric light or power plant, heating plant, tele-  
8 graph line, telephone exchange, or other public utility within the territorial limits of  
9 said city. No such officers or employes shall accept or receive, directly or indi-

10 rectly, from any person, firm or corporation, operating within the territorial limits  
11 of said city any interurban railway, street railway, gas works, water works, electric  
12 light or power plant, heating plant, telegraph line, telephone exchange, or other  
13 business using or operating under a public franchise, any frank, free pass, free ticket,  
14 or free service, or accept or receive, directly or indirectly, from any such person, firm  
15 or corporation, any other service upon terms more favorable than is granted to the  
16 public generally.

17 Such prohibition of free transportation shall not apply to policemen or firemen  
18 in uniform; nor shall any free service to city officials heretofore provided by any  
19 franchise or ordinance be affected by this section.

#### BOND RESTRICTION.

1 8. All cities adopting the provisions of this act shall be and are hereby vested  
2 with the general powers and authority to enact and enforce by imposition of reason-  
3 able fines or by imprisonment or both all ordinances necessary for the protection of  
4 life, health and property; to declare and prevent and summarily to abate nuisances;  
5 to preserve and enforce the good government and general welfare, order and se-  
6 curity of such city, and shall have all powers necessary for its government not in con-  
7 flict with the laws applicable to all cities of this State or the provisions of the Con-  
8 stitution. *Provided, however,* that no ordinance increasing the net bonded indebt-  
9 edness of the city to a sum in excess of ten per centum of the assessed valuation of  
10 all property within said city shall be valid unless the same shall be first submitted,  
11 by a special election, to the voters of the city and receive the approval of a major-  
12 ity of the voters actually voting at such election.

13 All ordinances or resolutions heretofore passed in any such cities, not incon-  
14 sistent with the rights and powers herein granted shall remain in full force and ef-  
15 fect until altered or repealed by the commissioners in the manner herein provided.

#### CONTROL OF CANDIDATES.

1 9. All officers and employes in any such city shall be elected or appointed with  
2 reference to their qualifications and fitness, and for the good of the public service.

3 and without reference to their political faith or party affiliations. It shall be unlaw-  
4 ful for any candidate for office, or any officer in any such city, directly or indirectly  
5 to give or promise any person or persons any office, position, employment, benefit or  
6 anything of value for the purpose of influencing or obtaining the political support,  
7 aid or vote of any person or persons under the penalty of being disqualified to hold  
8 the office to which he may have been elected or appointed.

9 Every elective officer in any such city shall, within ten days after qualifying, file  
10 with the city clerk, and publish at least once in a newspaper printed and published in  
11 such city, and if no newspaper is printed or published in such city, then in a news-  
12 paper of general circulation in such city, his sworn statement of all his election and  
13 campaign expenses, and by whom such funds were contributed. Any violation  
14 of the provisions of this section shall be a misdemeanor and a ground for removal  
15 from office.

#### PUBLISH FINANCIAL STATEMENTS.

1 10. The board of commissioners shall each month publish in at least one news-  
2 paper in such city, or print in pamphlet form, a detailed itemized statement of all  
3 the receipts and expenses of the city and a summary of its proceedings during the  
4 preceding month, and shall file and furnish printed copies thereof to all persons  
5 who shall apply therefor at the office of the city clerk. At the end of each year  
6 the board of commissioners shall cause a full and complete examination of all the  
7 books and accounts of the city to be made by competent accountants, and shall pub-  
8 lish the result of this examination in the manner above provided for the publica-  
9 tion of monthly expenditures.

#### CONTROL OF APPROPRIATIONS.

1 11. If, at the beginning of the term of office of the first board of commis-  
2 sioners elected in such city under the provisions of this act, the appropriations for  
3 the expenditures of the city government for the then current fiscal year have been  
4 made, the said board of commissioners shall have power, by ordinance, to revise, re-  
5 peal or change such appropriations and to make additional appropriations.

## PUBLIC INSTRUCTION EXEMPTED.

1 12. The system of public instruction in any city adopting the provisions of  
2 this act shall in no way be affected by this act.

## RETURN REQUIREMENT.

1 13. In every such city there shall be held a primary election for nominations  
2 for commissioners to be elected under the provisions of this act, and the first pri-  
3 mary election for such nominations shall be held on the fourth Tuesday following  
4 the election at which the voters shall have voted to adopt the provisions of this  
5 act, and thereafter the primary election for such nominations shall be held on the  
6 second Tuesday in March in the fourth succeeding year and on the second Tuesday  
7 in March in the fourth year thereafter.

8 The election officers conducting the last general annual election shall be the  
9 officers of the primary election as well as the officers of the general municipal elec-  
10 tion, and the primary and municipal elections shall be held at the same places and  
11 conducted in the same manner so far as possible, and the polls shall be opened and  
12 closed at the same hours as now provided by the general primary and election  
13 laws.

14 The names of candidates for commissioners shall, at least ten days prior to  
15 the primary election, be filed with the city clerk in the manner and form and under  
16 the conditions hereafter set forth, and the petition of nomination shall consist of  
17 individual certificates equal in number to at least one-half of one per centum of the  
18 entire vote at the last preceding general election, but in no event less than twenty-  
19 five, and said petition shall read substantially as follows:

## PETITION OF NOMINATION.

20 I, the undersigned, a qualified elector of the city of . . . . ., residing at . . . . .  
21 certify that I do hereby join in a petition for the nomination of . . . . ., whose  
22 residence is at . . . . ., for the office of commissioner, to be voted for at the pri-  
23 mary election to be held in such city on the . . . . ., 19.., and I further certify

24 that I know this candidate to be a qualified elector of said city and a man of good  
25 moral character, and qualified in my judgment for the duties of such office, and  
26 I further certify that I have not signed more petitions or certificates of nomina-  
27 tions than there are places to be filled in the above office.

28 (Signed) .....

29 Being duly sworn, deposes and says that he is the person that signed the fore-  
30 going certificate; that the statements contained therein are true and correct.

31 (Signed) .....

32 Subscribed and sworn to before me .....

33 It shall be the duty of the city clerk to furnish upon application a reasonable  
34 number of forms of individual certificates of the above character.

35 Each certificate must be a separate paper and must contain the name of but  
36 one signer thereto, and no more, and shall contain the name of but one candidate,  
37 and no more. Each signer must not, at the time of signing the certificate, have  
38 signed more certificates for candidates for that office than there are places to be  
39 filled in such office, and in case an elector has signed two or more conflicting cer-  
40 tificates, all such certificates shall be rejected.

41 When such a petition of nomination is presented for file to the city clerk, he  
42 shall forthwith examine the same and ascertain whether it conforms to the pro-  
43 visions of this section, and if not found in conformity thereto, he shall designate  
44 the defect and return the petition to the person signing it, which may again be  
45 presented when properly amended.

46 Immediately upon the expiration of the time of filing certificates, statements  
47 and petitions for candidates, the said clerk shall cause to be published for three  
48 successive days in all the daily newspapers published in such city, in proper form,  
49 the names of the persons as they are to appear upon the primary ballots, and if  
50 there be no daily newspapers, then in two issues of any other newspapers that may  
51 be published in said city; and the said clerk shall thereupon cause the primary bal-  
52 lots to be printed, authenticated with a facsimile of his signature. Upon the said  
53 ballot arranged in alphabetical order shall appear the names of the candidates for

54 commissioners with a square at the left of each name, and below the names of  
55 such candidates shall appear the words "Vote for five." The ballots shall be  
56 printed upon plain, substantial white paper, and shall be headed:

56" Candidates for Nomination for Commissioners of City at the Primary Election,  
57 but shall have no party designation indicative of the source of the candidacy or of  
58 the support of any candidate, or mark whatever. The ballots shall be in substan-  
59 tially the following form:

60 (Place a cross in the square preceding the names of the parties you favor as  
61 candidates for the respective positions.)

OFFICIAL PRIMARY BALLOT.

62 Candidates for Nomination for Commissioners of ..... City ..... at the  
63 Primary Election.

64

For Commissioner

65



(Name of Candidate)

66

(Vote for Five)

67

Official ballot attest

68

(Signature) .....

69

City Clerk.

70 Having caused said ballot to be printed, the said city clerk shall cause to be  
71 delivered at each polling place a number of said ballots equal to twice the number  
72 of votes cast in such polling precinct at the last general election. The persons who  
73 are qualified to vote at the general municipal election shall be qualified to vote at  
74 such primary election, and challenges can be made by not more than two persons,  
75 to be appointed at the time of opening the polls by the judges of election; and the  
76 law applicable to challenges made at a general municipal election shall be applicable  
77 to challenges at such primary election. Judges of election shall, immediately upon the  
78 closing of the polls, count the ballots and ascertain the number of votes cast in such

79 precinct for each of the candidates, and make return thereof to the city clerk, upon  
 80 proper blanks, to be furnished by the said clerk, within six hours of the closing of  
 81 the polls. On the day following the said primary election the said city clerk shall  
 82 canvass said returns so received from all the polling precincts, and shall immedi-  
 83 ately make and file in the office of the city clerk the result thereof. Said canvass by  
 84 the city clerk shall be publicly made.

#### MUNICIPAL ELECTION.

1 14. And in every such city there shall be elected, at an election to be held on  
 2 the fourth Tuesday following the primary election, following the election at which  
 3 the voters shall have voted to adopt the provisions of this act, and on the second  
 4 Tuesday in April in each fourth year thereafter, five commissioners. The ten candi-  
 5 dates receiving the highest number of votes at the primary election shall be the  
 6 candidates, and the only candidates whose names shall be placed upon the ballot at  
 7 the succeeding municipal election, and the ten candidates receiving the highest num-  
 8 ber of votes for commissioners, or all such candidates if less than ten, shall be the  
 9 candidates, and the only candidates, whose names shall be placed upon the ballot for  
 10 commissioners at such municipal election, and the ballot at such municipal election  
 11 shall be in the same general form as for said primary election so far as possible,  
 12 and at all elections in such city the election precincts, voting places, methods of con-  
 13 ducting election, canvassing the votes and announcing the results, shall be the same  
 14 as herein provided for the selection of candidates at the primary election, and the  
 15 five candidates receiving the highest number of votes shall be elected as commis-  
 16 sioners as herein provided.

#### RECALL.

1 15. The holder of any elective office may be removed at any time by the elec-  
 2 tors qualified to vote for a successor of such incumbent. The procedure to effect the  
 3 removal of an incumbent of an elective office shall be as follows: A petition signed by  
 4 the electors entitled to vote for a successor to the incumbent sought to be removed,

5 equal in number to at least twenty-five per cent. of the entire vote at the last preced-  
6 ing general election demanding an election of a successor of the person sought to be  
7 removed, shall be filed with the city clerk, which petition shall contain a general  
8 statement of the grounds for which the removal is sought.

9 The signatures to the petition need not all be appended to one paper, but each  
10 signer shall add to his signature his place of residence, giving the street and number.  
11 One of the signers of each such paper shall make an oath before an officer competent  
12 to administer oaths that the statement therein made is true as he believes, and that  
13 each signature to the paper appended is the genuine signature of the person whose  
14 name it purports to be. Within ten days from the date of filing such petition the  
15 city clerk shall examine, ascertain whether or not said petition is signed by the  
16 requisite number of qualified electors, and he shall attach to said petition his certifi-  
17 cate, showing the result of said examination. If, by the clerk's certificate, the peti-  
18 tion is shown to be insufficient, it may be amended within ten days from the date of  
19 said certificate.

20 The clerk shall, within ten days after such amendment, make like examination  
21 of the amended petition, and if this certificate shall show the same to be insufficient,  
22 it shall be returned to the person filing the same, without prejudice to the filing of a  
23 new petition to the same effect. If the petition shall be deemed to be sufficient,  
24 the clerk shall submit the same to the board of commissioners without delay.

25 If the petition shall be found to be sufficient the board of commissioners shall  
26 order and fix a date for holding the said election, not less than thirty days or more  
27 than forty days from the date on the clerk's certificate to the board of commis-  
28 sioners that a sufficient petition is filed.

29 The board of commissioners shall make, or cause to be made, publication of  
30 notice and all arrangements for holding such election, and the same shall be con-  
31 ducted, returned and the result thereof declared in all respects as are other city elec-  
32 tions. The successor of any officer so removed shall hold office during the unexpired  
33 term of his predecessor. Any person sought to be removed may be a candidate to

34 succeed himself, and unless he requests otherwise in writing, the clerk shall place  
35 his name on the official ballot without nomination. In any such removal election,  
36 the candidate receiving the highest number of votes shall be declared elected. At  
37 such election, if some other person than the incumbent receives the highest number  
38 of votes the incumbent shall thereupon be deemed removed from the office upon  
39 qualification of his successor. In case the person who receives the highest number  
40 of votes should fail to qualify within ten days after receiving notification of elec-  
41 tion, the office shall be deemed vacant. If the incumbent receives the highest num-  
42 ber of votes, he shall continue in office. The same method of removal shall be  
43 cumulative and additional to the methods heretofore provided by law.

44 No recall petition shall be filed against any officer until he has actually held his  
45 office for at least twelve months, and but one recall petition shall be filed against the  
46 same officer during his term of office.

#### INITIATIVE.

1 16. Any proposed ordinance may be submitted to the board of commissioners  
2 by petition signed by electors of the city equal in number to the percentage herein-  
3 after required. The signatures, verification, authentication, inspection, certification,  
4 amendment and submission of such petition shall be the same as provided for peti-  
5 tions under the last section.

6 If the petition accompanying the proposed ordinance be signed by electors  
7 equal in number to fifteen per centum of the votes cast at the last preceding general  
8 election, and contains a request that the said ordinance be submitted to a vote of the  
9 people if not passed by the board of commissioners, such board of commissioners  
10 shall either—

11 (a) Pass said ordinance without alteration within twenty days after attach-  
12 ment of the clerk's certificate to the accompanying petition, or,

13 (b) Forthwith, after the clerk shall attach to the petition accompanying such  
14 ordinance his certificate of sufficiency, the board of commissioners shall call a  
15 special election, unless a general municipal election is fixed within ninety days  
16 thereafter, and at such special or general municipal election, if one is so fixed,

17 such ordinance shall be submitted without alteration to the vote of the electors of  
18 the city.

19 But if the petition is signed by not less than ten nor more than fifteen per  
20 centum of the electors, as above defined, then the board of commissioners shall,  
21 within twenty days, pass said ordinance without change, or submit the same at the  
22 next general city election occurring not more than thirty days after the clerk's  
23 certificate of sufficiency is attached to said petition.

24 The ballots used when voting upon said ordinance shall contain these words:  
25 "For the ordinance" (stating the nature of the proposed ordinance) and "Against  
26 the ordinance" (stating the nature of the proposed ordinance). If a majority of  
27 the qualified electors voting on the proposed ordinance shall vote in favor thereof,  
28 such ordinance shall thereupon become a valid and binding ordinance of the city;  
29 and any ordinance proposed by petition, or which shall be adopted by a vote of  
30 the people, cannot be repealed or amended except by a vote of the people.

31 Any number of proposed ordinances may be voted upon at the same election  
32 in accordance with the provisions of this section; but there shall not be more than  
33 one special election in any period of six months for such purpose.

34 The board of commissioners may submit a proposition for the repeal of any  
35 such ordinance or for amendment thereto, to be voted upon at any succeeding gen-  
36 eral city election, and should such proposition so submitted receive a majority of  
37 the votes cast thereon at such election, such ordinance shall thereby be repealed or  
38 amended accordingly. Whenever any ordinance or proposition is required by this  
39 act to be submitted to the voters of the city at any election, the city clerk shall  
40 cause such ordinance or proposition to be published once in at least one of the news-  
41 papers published in said city; such publication to be not more than twenty nor less  
42 than five days before the submission of such proposition of ordinance to be voted  
43 on.

## REFERENDUM.

1 17. No ordinance passed by the board of commissioners, except when other-  
2 wise required by the general laws of the State or by the provisions of this act, ex-  
3 cept an ordinance for the immediate preservation of the public peace, health or  
4 safety, which contains a statement of its urgency and is passed by a two-thirds  
5 vote of the board of commissioners, shall go into effect before ten days from the  
6 time of its final passage; and if during said ten days a petition signed by electors  
7 of the city equal in number to at least fifteen per centum of the entire vote cast at  
8 the last preceding general municipal election, protesting against the passage of  
9 such ordinance, be presented to the board of commissioners, the same shall there-  
10 upon be suspended from going into operation, and it shall be the duty of the board  
11 of commissioners to reconsider such ordinance; and if the same is not entirely re-  
12 pealed, the board of commissioners shall submit the ordinance, as is provided by sub-  
13 section b of section sixteen of this act, to the vote of the electors of the city, either  
14 at the general election or at a special municipal election to be called for that pur-  
15 pose; and such ordinance shall not go into effect or become operative unless a ma-  
16 jority of the qualified electors voting on the same shall vote in favor thereof. Said  
17 petition shall be in all respects in accordance with the provisions of said section  
18 sixteen, except as to the percentage of signers, and be examined and certified to by  
19 the clerk in all respects as therein provided.

## ADOPTION REQUIREMENTS.

1 18. This act shall take effect immediately, but its provisions shall remain in-  
2 operative in any city of this State until assented to by a majority of the legal voters  
3 thereof voting at an election to be held in such city, which election shall be called  
4 by the city clerk upon the request or petition in writing of twenty per centum of  
5 the legal voters voting at the last general election. Upon such petition or request  
6 in writing being filed with the city clerk, the said city clerk shall forthwith call an  
7 election to be held on the third Tuesday following the date of the filing of such peti-

8 tion with him, and shall cause public notice of the time and place of holding the  
9 same to be given by advertisement signed by himself and set up in at least twenty  
10 different places in such cities and published in at least one newspaper printed and  
11 published in such city, and if no newspaper is printed or published in such city, then  
12 in a newspaper circulated therein, for at least six days previous to the time of such  
13 election; and said city clerk shall provide ballots for each voter at such election, to  
14 be printed upon plain, substantial white paper, which shall contain these words:

15 "For the adoption or the rejection by the city of (here name of city) of the  
16 provisions of an act of one thousand nine hundred and eleven, entitled 'An act re-  
17 lating to, regulating and providing for the government of cities, towns, boroughs  
18 and other municipalities within this State.'" Upon said ballots shall appear the  
19 phrase "For the adoption," and the phrase "Against the adoption," with a square  
20 at the left of each phrase, and below shall appear the words "Vote for or against":  
21 "Place a cross in one square."

22 Such election shall be held at the usual places of holding the annual election in  
23 such city. The polls shall remain open during the usual hours, and every such  
24 election shall be conducted by the same election officers for the time being in the  
25 manner prescribed by law regulating elections, and such officers shall report to the  
26 city clerk of such city a true and correct statement in writing under their hands of  
27 the results of such election, and it shall be the duty of the city clerk to certify and  
28 report the same to the city council, or other legislative body, of such city or muni-  
29 cipality, at its first meeting thereafter, and the same shall be entered at large in the  
30 minutes of said body. Whereupon, if it is found that the majority of the votes cast  
31 are in favor of the adoption of this act, this act shall in all respects become and be  
32 operative in such city, and binding upon the inhabitants thereof and upon all per-  
33 sons and property to be affected thereby; and, immediately after the election and  
34 organization of the board of commissioners provided herein, it shall abrogate, re-  
35 peal and annul all acts or parts of acts then existing, whether general or special, in  
36 anywise affecting the government of such cities which are contrary to or incon-  
37 sistent with the provisions of this act; *provided, however,* that this act shall not ab-

38 rogate, repeal or annul an act entitled "An act concerning district courts (Revision  
39 of 1898), approved June fourteenth, one thousand nine hundred and eight," or any  
40 supplement thereof or amendment thereto.

41 If a majority of the votes cast are not in favor of the adoption of this act, then  
42 the provisions of this act shall remain inoperative and no further proceedings shall  
43 be taken until after the expiration of twelve months from and after the date of such  
44 election, after which date, upon the presentation of another petition or request, as  
45 provided for herein, the same procedure shall be had and the question of the  
46 adoption or rejection of the provisions of this act again submitted in the manner  
47 herein set forth, and with the same force and effect.

#### REVERSION TO THE CHARTER.

1 19. Any city which shall have operated for more than six years under the pro-  
2 visions of this act may abandon such organization hereunder and may resume its  
3 charter by proceeding as follows:

4 Upon the petition of not less than twenty-five per centum of the electors of such  
5 city, a special election shall be called at which the following proposition shall be  
6 submitted: "Shall the city of (name of city) abandon its organization under the pro-  
7 visions of an act of one thousand nine hundred and eleven, entitled 'An act relating  
8 to, regulating and providing for the government of cities within this State,' and re-  
9 sume or adopt a charter under another act?"

10 If a majority of the votes cast at such special election be in favor of such  
11 proposition, the officers elected at the next succeeding regular municipal election  
12 shall be those prescribed by the charter, and upon the qualification of such officers  
13 such city shall become a city under the charter, but such change shall not in any  
14 manner or degree affect the property, right or liability of any nature of such city,  
15 but shall merely extend to such change in its form of government.

16 The sufficiency of such petition shall be determined, the election ordered and  
17 conducted and the results declared generally as provided by Article IV of this act  
18 insofar as the provisions thereof are applicable.

AMENDMENTS TO  
**ASSEMBLY, No. 321.**

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**STATE OF NEW JERSEY.**

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1 Amend section eighteen, line thirty-one, by inserting after the word "thereby"  
2 the words "provided, however, that the said majority of votes cast in favor of  
3 the adoption of this act is equal to at least forty per centum of the votes cast for  
4 members of the General Assembly at the last general election immediately pre-  
5 ceding the submission of this act as aforesaid."

SENATE, No. 59.

(P. L. 1911, p. 462.)

STATE OF NEW JERSEY.

INTRODUCED JANUARY 27, 1913.

By Mr. LEAVITT.

Referred to Committee on Boroughs and Townships.

A SUPPLEMENT to an act entitled "An act relating to, regulating and providing for the government of cities, towns, townships, boroughs villages and municipalities governed by boards of commissioners or improvement commissions in this State," approved April twenty-fifth, one thousand nine hundred and eleven, the title to which act was amended to read as above set forth by an act approved April second, one thousand nine hundred and twelve.

1 WHEREAS, Some question has arisen as to whether or not local boards of health  
2 are abolished upon the organization of commissioners elected under the provi-  
3 sions of the act to which this act is supplemental, and it is deemed expedi-  
4 ent that the operation of said act upon its adoption be made clear in this re-  
5 gard; therefore,

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

1 I. Whenever the provisions of the act to which this act is supplemental have  
2 been adopted by any municipality, either prior or subsequent to the passage of this  
3 act, all boards and bodies then existing in such city, except the board of education  
4 and the district court or courts, shall be ipso facto abolished, and all the powers  
5 and duties devolved by law upon such boards and bodies shall pass to, vest in and  
6 be performed by the board of commissioners elected under the provisions of the act

7 to which this act is supplemental; *provided, however*, that nothing in this act con-  
8 tained shall be construed to prohibit the creation of subordinate boards as author-  
9 ized by paragraph four of section four of said act to which this act is supplemental.

1 2. This act shall take effect immediately.

Assembly Bill No. 589, entitled "A supplement to an act entitled 'An act in relation to county expenditures,'" approved April seventh, one thousand eight hundred and seventy-eight,

Assembly Bill No. 405, entitled "An act relating to certain officers and employes of various municipalities of this State, abolishing their term of office and prohibiting their removal except for cause,"

Without amendment, and

Assembly Bill No. 321, entitled "An act relating to, regulating and providing for the government of cities, towns, boroughs and other municipalities within this State."

With the following amendments, which was read and adopted:

Amend section eighteen, line thirty-three, page nineteen, by striking out the words "said majority" after the words "that the", and in line thirty-four strike out the first word "of".

Amend line thirty-four, page nineteen, section eighteen, by making the word "forty" after the word "least" read "twenty-six".

The following further amendments were read:

words "apply in any way to the tenure of office of any policeman, words "apply in any way to the tenure of office of any policeman, fireman or veteran" and insert in lieu thereof the following: "affect in any way the term of office of any policeman, fireman, or other employe of any police or fire department, veteran of any war, or other official or employe now protected by any tenure of office act."

And adopted by the following vote:

In the affirmative were—

Messrs. Brown, Edge, Gebhardt, Leavitt, Low, Nichols, Osborne, Price—8.

In the negative—

Messrs. Fielder, Hand—2.

Said bill, as amended, was then read a second time, considered by sections, agreed to, amendments ordered to be printed, and the bill to have a third reading.

The following message was received from the House of Assembly, by the hands of its Clerk:

STATE OF NEW JERSEY,  
ASSEMBLY CHAMBER,

April 19th, 1911. }

Mr. President:

I am directed by the House of Assembly to inform the Senate that the House of Assembly has passed the following concurrent resolution:

WHEREAS, The Commission consisting of the Governor, the Attorney-General and the Honorable Bennet Van Syckel, lately appointed by concurrent resolution, have reported to the Legislature, in writing, the terms upon which the matters in difference between the State and the Lehigh Valley Railroad Company and the Lehigh Valley Railroad Company of New Jersey can be amicably settled, and the terms on which the charter of the Morris Canal and Banking Company may be repealed and its property disposed of, together with their recommendation that such settlement be adopted by the State—

*Resolved* (the Senate concurring), That said Commission be continued with authority to prepare an appropriate bill, or bills, for carrying into effect the terms of the proposed settlement, and to report the same to the Legislature at the beginning of its next session.

In which the concurrence of the Senate is requested.

DANIEL A. DUGAN,  
Clerk of the House of Assembly.

Was read, and concurred in by the following vote:

In the affirmative were—

Messrs. Ackerman (President), Brown, Fielder, Frelinghuysen, Gaunt, Gebhardt, Hand, Johnson, Leavitt, Low, Nichols, Osborne, Price, Silzer—14.

In the negative—None.

A message was received from the Governor, by the hands of Mr. Tumulty, his Secretary, as follows:

STATE OF NEW JERSEY,  
EXECUTIVE DEPARTMENT,

April 19th, 1911.

To the Legislature:

I have the honor to transmit herewith the report of the Commission appointed by concurrent resolution of the Legislature to confer with the Lehigh Valley Railroad Company, concerning the terms to which the Lehigh Valley Railroad Company would

thousand eight hundred and forty-two, and the act amendatory thereof and supplementary thereto,

Was taken up and read a third time.

Upon the question, "Shall this Assembly bill pass?" it was decided as follows:

In the affirmative were—

Messrs. Ackerman (President), Bradley, Fielder, Fitzherbert, Johnson, Leavitt, Low, Nichols, Osborne, Price, Silzer—11.

In the negative—None.

The Secretary was directed by the President to carry said bill to the House of Assembly and inform that body that the Senate has passed the same, without amendment.

Assembly Bill No. 268, entitled "An act to amend an act entitled 'An act for the appointment of commissioners for the better protection of the fishing interests of the State of New Jersey,'" approved March seventeenth, one thousand eight hundred and seventy,

Was taken up and read a third time.

Upon the question, "Shall this Assembly bill pass?" it was decided as follows:

In the affirmative were—

Messrs. Ackerman (President), Brown, Edge, Fitzherbert, Frelinghuysen, Gaunt, Johnson, Leavitt, Lewis, Low, Osborne, Plummer—12.

In the negative were—

Messrs. Fielder, Hand, Nichols, Price, Silzer—5.

The Secretary was directed by the President to carry said bill to the House of Assembly and inform that body that the Senate has passed the same, without amendment.

The following message was received from the House of Assembly by the hands of its Clerk:

STATE OF NEW JERSEY,  
ASSEMBLY CHAMBER,  
April 21st, 1911. }

Mr. President:

I am directed by the House of Assembly to inform the Senate that the House of Assembly has concurred in the following concurrent resolution:

*Resolved* (the House of Assembly concurring), That Assembly Bill No. 321 be returned to the Senate for further consideration.

DANIEL A. DUGAN,  
*Clerk of the House of Assembly.*

Mr. Edge presented the following report:

The Conference Committee of the Senate and House of Assembly, appointed to confer on Assembly Bill No. 321, has unanimously agreed to recommend the passage of said bill, making the percentage of votes necessary to place the bill into effect at thirty per cent.

WALTER E. EDGE,  
HARRY D. LEAVITT,  
JAMES F. FIELDER,  
ELMER H. GERAN,  
LLOYD THOMPSON,  
WM. J. MCGOWAN, JR.

Mr. Edge moved that the vote by which

Assembly Bill No. 321, entitled "An act relating to, regulating and providing for the government of cities, towns, boroughs and other municipalities within this State."

Passed on third reading, be reconsidered.

Which was agreed to by the following vote:

In the affirmative were—

Messrs. Ackerman (President), Bradley, Edge, Fielder, Johnson, Leavitt, Lewis, Low, Osborne, Plummer, Silzer—11.

In the negative—None.

Mr. Edge asked unanimous consent to amend said bill on third reading.

Which was agreed to.

Mr. Edge offered the following amendment, which was read and adopted:

Amend Senate Amendments to Assembly No. 321 by striking out the last amendment and inserting in lieu thereof the following:

Amend line thirty-four, page nineteen, section eighteen, by making the word "forty", after the word "lease", read "thirty".

Said bill, as amended, was taken up and read a third time.

Upon the question, "Shall this Assembly bill pass?" it was decided as follows:

In the affirmative were—

Messrs. Bradley, Brown, Edge, Leavitt, Lewis, Low, Nichols, Osborne, Plummer, Price, Prince, Silzer—12.

In the negative—None.

The Secretary was directed by the President to carry said bill to the House of Assembly and inform that body that the Senate has passed the same, without amendment.

The following message was received from the House of Assembly by the hands of its Clerk:

STATE OF NEW JERSEY,  
ASSEMBLY CHAMBER,  
April 21st, 1911. }

Mr. President:

I am directed by the House of Assembly to inform the Senate that the House of Assembly has passed the following bill:

Committee Substitute for Senate Bill No. 258, entitled "Supplement to an act entitled 'An act to establish a thorough and efficient system of public schools, and to provide for the maintenance, support and management thereof,'" approved October nineteenth, one thousand nine hundred and three,

With amendment.

In which the concurrence of the Senate is requested.

DANIEL A. DUGAN,  
Clerk of the House of Assembly.

The amendments made in the House of Assembly to

Committee Substitute for Senate Bill No. 258, entitled "Supplement to an act entitled 'An act to establish a thorough and efficient system of public schools, and to provide for the maintenance, support and management thereof,'" approved October nineteenth, one thousand nine hundred and three,

Were read in open Senate, and concurred in by the following vote:

In the affirmative were—

Messrs. Ackerman (President), Bradley, Fielder, Fitzherbert, Frelinghuysen, Johnson, Low, Nichols, Plummer, Price, Silzer—11.

In the negative—None.

The following message was received from the House of Assembly by the hands of its Clerk:

STATE OF NEW JERSEY,  
ASSEMBLY CHAMBER,  
April 21st, 1911. }

Mr. President:

I am directed by the House of Assembly to inform the Senate that the House of Assembly has concurred in the following concurrent resolution:

*Resolved* (the House of Assembly concurring), That the New Jersey Representatives in Congress of the United States be and they hereby are requested to secure, if possible, an amendment to the Interstate Commerce Act, whereby the Interstate Commerce Commission would acquire jurisdiction over waters similar to the Delaware and Raritan Canal in this State, in order that interstate traffic, passing through said canal, may hereafter be regulated by the Interstate Commerce Commission in view that it is impossible for the State to regulate traffic of this character; and be it further

*Resolved*, That the Secretary of State forward a copy of this resolution to said representatives in Congress.

DANIEL A. DUGAN,  
Clerk of the House of Assembly.

The following message was received from the House of Assembly by the hands of its Clerk:

STATE OF NEW JERSEY,  
ASSEMBLY CHAMBER,  
April 21st, 1911. }

Mr. President:

I am directed by the House of Assembly to inform the Senate that the House of Assembly has passed the following concurrent resolution in respect to the proceedings now being prosecuted by the United States Government for the condemnation of certain water rights and certain lands, and rights in lands, of the State of New Jersey, lying under the tide waters of the Kill von Kull, Passaic River and Hackensack River.

*Be it resolved* (by the House of Assembly, the Senate concurring), That the Representatives of the State of New Jersey

Was taken up, read a second time, considered by sections, agreed to and ordered to have a third reading.

Mr. G. W. Whyte offered the following proposed amendment to

Assembly Bill No. 321, entitled "An act relating to, regulating and providing for the government of cities, towns, boroughs and other municipalities within this State,"

Amend by striking out sections fifteen, sixteen and seventeen.

Which, on motion, was ordered printed.

On motion of Mr. Donnelly,

Assembly Bill No. 461, entitled "An act for the prevention of trespassing upon railway trains and railroad property,"

Was taken up, read a second time, considered by sections, agreed to and ordered to have a third reading.

On motion of Mr. Martin,

Assembly Bill No. 407, entitled "An act to regulate the exhibition of moving pictures,"

Was taken up, read a second time, considered by sections, agreed to and ordered to have a third reading.

Mr. McGrath offered the following proposed amendment to

Assembly Bill No. 301, entitled "An act to provide for the appointment of boiler inspectors in counties of this State,"

Amend section one, line three, to read as follows: "appointment of not more than five inspectors, of not less than five years' experience, in the construction of steam boilers, to be known and designated as Board of Boiler Inspectors."

Which was ordered printed.

Mr. Griffin offered the following proposed amendment to

Assembly Bill No. 321, entitled "An act relating to, regulating and providing for the government of cities, towns, boroughs and other municipalities within this State,"

Amend section eighteen, line thirty-one, by inserting after the word "thereby" the words "provided, however, that the said majority of votes cast in favor of the adoption of this act is equal to at least forty per centum of the votes cast for members of the General Assembly at the last general election immediately preceding the submission of this act as aforesaid."

Which was ordered printed.

Mr. Taylor moved that the rules be suspended and that the vote by which

Assembly Bill No. 482, entitled "An act making an appropriation for the survey of the mouth of Shark river and for the further purpose of securing plans for and estimates of the cost of making a permanent inlet or mouth of said river,"

Was advanced to third reading be reconsidered, and that

Assembly Bill No. 482, entitled "An act making an appropriation for the survey of the mouth of Shark river and for the further purpose of securing plans for and estimates of the cost of making a permanent inlet or mouth of said river,"

Be placed back on second reading for the purpose of amendment.

Which motion was carried.

On motion of Mr. Leveen,

Assembly Bill No. 395, entitled "A further supplement to an act entitled 'An act to secure to mechanics and others payment for their labor and materials in erecting any building (Revision of 1898),' " approved June fourteenth, one thousand eight hundred and ninety-eight,

Was taken up, read a second time, considered by sections, agreed to and ordered to have a third reading.

On motion of Mr. Agnew,

Assembly Bill No. 367, entitled "A supplement to an act entitled 'An act to enable the board of chosen freeholders of any of the several counties of this State to construct and reconstruct bridges over and across navigable rivers or streams therein in certain cases, and providing for the regulation thereof,' " approved March twenty-eighth, one thousand eight hundred and ninety-two,

Was taken up, read a second time, considered by sections, agreed to and ordered to have a third reading.

Mr. Griffin offered the following proposed amendments to substitute for

Assembly Bill No. 14, entitled "An act permitting the entering into of contracts for water-supply between municipalities of this State,"

Which was read for the first time by its title, ordered to have a second reading, and referred to the Committee on Judiciary.

Mr. Simpson, on leave, introduced

Assembly Bill No. 588, entitled "An act to authorize the boards of chosen freeholders of counties in which there have been established tuberculosis hospitals to issue bonds for the maintenance and conduct of such institutions when current appropriation is insufficient,"

Which was read for the first time by its title, ordered to have a second reading, and referred to the Committee on Municipal Corporations.

Mr. Simpson, on leave, introduced

Assembly Bill No. 589, entitled "A supplement to an act entitled 'An act in relation to county expenditures,'" approved April seventh, one thousand eight hundred and seventy-eight.

Which was read for the first time by its title, ordered to have a second reading, and referred to the Committee on Municipal Corporations.

Mr. Egan moved that the rules be suspended and that the vote by which

Assembly Bill No. 454, entitled "An act to authorize county park commissioners in all counties having county parks, to provide music in county parks during the months of June, July, August and September in each year.

Was advanced to third reading; be reconsidered, and that

Assembly Bill No. 454, entitled "An act to authorize county park commissioners in all counties having county parks, to provide music in county parks during the months of June, July, August and September in each year,

Be placed back on second reading for the purpose of amendment.

Which motion was carried.

Mr. Egan offered the following amendment to

Assembly Bill No. 454, entitled "An act to authorize county park commissioners in all counties having county parks, to provide music in county parks during the months of June, July, August and September in each year."

After the word "year" on line five, section one, insert semicolon and the following words "provided, however, that the provisions of this act shall not affect, in any way, any provision for music in said parks made by the common council, or other governing body, of any city or cities in said counties having county parks."

Which was read and adopted.

On motion of Mr. Egan,

Assembly Bill No. 454, entitled "An act to authorize county park commissioners in all counties having county parks, to provide music in county parks during the months of June, July, August and September in each year,"

As amended,

Was taken up, read a second time, considered by sections, agreed to and ordered to have a third reading.

On motion of Mr. Egan,

Assembly Bill No. 454, entitled "An act to authorize county park commissioners in all counties having county parks, to provide music in county parks during the months of June, July, August and September in each year,"

Was taken up, and, under suspension of the rules, was read a third time by its title, and passed by the following vote:

In the affirmative were—

Messrs. Bacharach, Backus, Boettner, Brodhead, Bunn, Burke, Christie, Davidson, De Unger, Egan, Geran, Hendrickson, Hanners, Jackson, Lafferty, La Monte, Layden, Leveen, Macksey, Martin, Mather, McGowan, McLoughlin, Meyer, Mylod, Newman, Phillips, Pikaart, Pine, Radcliffe, Richmond, Shalvoy, Thompson, Turner, Walsh, Whitar, Whyte G. W.—38.

In the negative—None.

Ordered, that the Speaker sign the said bill, and that the Clerk carry it to the Senate and inform the Senate that the House of Assembly has passed the same, and requests its concurrence therein.

On motion of Mr. Walsh,

Assembly Bill No. 321, entitled "An act relating to, regulating and providing for the government of cities, towns, boroughs and other municipalities within this State,"

Was taken up on second reading.

The amendment of Mr. Griffin, heretofore offered, and reading as follows:

Amend section eighteen, line thirty-three, by inserting after the word "thereby" the words "*provided, however*, that the said majority of votes cast in favor of the adoption of this act is equal to at least forty per centum of the votes cast for members of the General Assembly at the last general election immediately preceding the submission of this act as aforesaid"

To said

Assembly Bill No. 321, entitled "An act relating to, regulating and providing for the government of cities, towns, boroughs and other municipalities within this State,"

Was then, on motion of Mr. Griffin, put upon its adoption.

Which amendment, the ayes and nays being called, was adopted by the following vote:

In the affirmative were—

Messrs. Adams, Agnew, Backus, Bunn, Burke, Christie, Coles, Davidson, De Unger, Donnelly, Egan, Ford, Griffin, James, La Monte, Leveen, Macksey, Martin, Matthews, McCran, McGowan, McLoughlin, Meyer, Phillips, Pikaart, Pine, Radcliffe, Ramsay, Richmond, Shalvoy, Simpson, Thompson, Turner, White B. H., Whiticar, Whyte G. W.—36.

In the negative were—

Messrs. Bacharach, Balentine, Boettner, Brodhead, Geran, Hendrickson, Hinners, Jackson, Kenny (Speaker), Lafferty, Layden, Mylod, Newman, Streitwolf, Taylor, Walsh—16.

Mr. G. W. Whyte withdrew the amendment heretofore offered by him to

Assembly Bill No. 321, entitled "An act relating to, regulating and providing for the government of cities, towns, boroughs and other municipalities within this State,"

And offered as a substitute therefor an amendment which Mr. Whyte also withdrew.

Mr. Whyte then offered the following amendments to

Assembly Bill No. 321, entitled "An act relating to, regulating and providing for the government of cities, towns, boroughs and other municipalities within this State,"

Amend section four, page six, line ninety-eight, by striking out the words "may be increased or diminished" and substitute therefor the words "shall be fixed".

Also after the word "commissioners" in line ninety-nine and before the comma, insert the words "immediately after the organization of the board".

Also add after the period in line ninety-nine the following: "The compensation so fixed shall not be increased during the term for which such commissioners are elected".

Which were read and adopted.

Mr. Whyte also offered the following amendment to

Assembly Bill No. 321, entitled "An act relating to, regulating and providing for the government of cities, towns, boroughs and other municipalities within this State,"

Amend section eighteen, page twenty, line forty-three, by striking out the words "expiration of twelve months from and after the date of such election" and substitute therefor the words "beginning of the last year of the term of the mayor, or equivalent officer, elected at the election following the rejection of this act".

Which amendment was being discussed pro and con, when a recess, on motion of Mr. Matthews, was ordered until 2:30 o'clock.

#### AFTERNOON SESSION.

The House reconvened at 2:30 o'clock P. M.

Upon the calling of the roll, the following gentlemen appeared and answered to their names:

Messrs. Adams, Agnew, Bacharach, Backus, Balentine, Boettner, Booraem, Bracken, Brodhead, Bunn, Burke, Christie, Coles, Davidson, De Unger, Donnelly, Egan, Ford, Geran, Griffin, Hand, Hendrickson, Jackson, James, Kenny (Speaker), Lafferty, La Monte, Layden, Leveen,

Macksey, Martin, Mather, Matthews, McCran, McGowan, McGrath, McLoughlin, Meyer, Mylod, Newman, Phillips, Pikaart, Pine, Radcliffe, Ramsay, Richmond, Simpson, Streitwolf, Taylor, Thompson, Turner, Walsh, White B. H., Whitar, Whyte G. W.—55.

Absent—

Messrs. Brown, Cole, Hinners, Shalvoy—4.

Mr. Walsh moved that the House be placed under call.

Which motion was carried.

Upon the calling of the roll, the following gentlemen appeared and answered to their names:

Messrs. Adams, Agnew, Bacharach, Backus, Balentine, Boettner, Booraem, Bracken, Brodhead, Bunn, Burke, Christie, Coles, Davidson, De Unger, Donnelly, Egan, Ford, Geran, Griffin, Hand, Hendrickson, Jackson, James, Kenny (Speaker), Lafferty, La Monte, Layden, Leveen, Macksey, Martin, Mather, Matthews, McCran, McGowan, McGrath, McLoughlin, Meyer, Mylod, Newman, Phillips, Pikaart, Pine, Radcliffe, Ramsay, Richmond, Simpson, Streitwolf, Taylor, Thompson, Turner, Walsh, White B. H., Whitar, Whyte G. W.—55.

Absent—

Messrs. Brown, Cole, Hinners, Shalvoy—4.

The House proceeded under call.

The Speaker called Mr. Brodhead to the chair.

The amendment to

Assembly Bill No. 321 entitled "An act relating to, regulating and providing for the government of cities, towns, boroughs and other municipalities within this State."

Offered by Mr. G. W. Whyte immediately before recess, was taken up, and, on his motion, was adopted.

Mr. Walsh offered the following amendment to

Assembly Bill No. 321, entitled "An act relating to, regulating and providing for the government of cities, towns, boroughs and other municipalities within this State."

Add a new section to be known as section twenty, to read as follows:

20. If any proviso, clause or section of this act shall be attacked in any court and shall be declared invalid or unconstitutional, the rest of this act shall stand and the proviso, clause or section declared invalid or unconstitutional shall be excised from this act,

Which was read and adopted.

On motion of Mr. Walsh,

Assembly Bill No. 321, entitled "An act relating to, regulating and providing for the government of cities, towns, boroughs and other municipalities within this State,"

As amended.

Was taken up, read a second time, considered by sections, agreed to and ordered to have a third reading.

On motion of Mr. Walsh,

Assembly Bill No. 321, entitled "An act relating to, regulating and providing for the government of cities, towns, boroughs and other municipalities within this State,"

Was taken up, and, under suspension of the rules, was read a third time by its title, and passed by the following vote:

In the affirmative were—

Messrs. Adams, Agnew, Bacharach, Backus, Balentine, Boettner, Booraem, Brodhead, Bunn, Burke, Christie, Coles, Davidson, De Unger, Ford, Geran, Griffin, Hand, Hendrickson, Jackson, Kenny (Speaker), Lafferty, La Monte, Layden, Leveen, Macksey, Martin, Mather, Matthews, McGowan, McLoughlin, Meyer, Mylod, Newman, Phillips, Pikaart, Pine, Radcliffe, Ramsay, Richmond, Shalvoy, Simpson, Streitwolf, Taylor, Thompson, Turner, Walsh, White B. H.—48.

In the negative—None.

Ordered, that the Speaker sign the said bill, and that the Clerk carry it to the Senate and inform the Senate that the House of Assembly has passed the same, and requests its concurrence therein.

Mr. Balentine, Chairman of Committee on Printed Bills, reported

Assembly Bill No. 564, entitled "An act regulating the pay of officers and policemen in cities other than cities of the first class and those known as seaside resorts in this State,"