

JOURNAL OF PROCEEDINGS

OF THE

Common Council

OF THE

CITY OF INDIANAPOLIS

In Marion County, in the State of Indiana

REGULAR MEETING

Monday, March 4th, 1929, 7:30 P. M.

The Common Council of the City of Indianapolis met in regular session in the Council Chamber at City Hall, Monday, March 4th, 1929, at 7:30 P. M., President Edward B. Raub in the chair.

The Clerk called the roll.

Present: Edward B. Raub, President, and six members, viz: Earl Buchanan, Edward W. Harris, Albert F. Meurer, Meredith Nicholson, Paul E. Rathert, Robert E. Springsteen.

Absent: Herman P. Lieber, John F. White.

On motion of Mr. Rathert, seconded by Mr. Harris, the reading of the Journal for the previous meeting was dispensed with.

COMMUNICATIONS FROM THE MAYOR

February 20, 1929.

Mr. President and Members of the Common Council of the City of Indianapolis:

Gentlemen:

I have this day approved with my signature and delivered to William A. Boyce, Jr., City Clerk, the following ordinance:

SPECIAL ORDINANCE No. 3, 1929

AN ORDINANCE, authorizing the sale of certain personal property of the City of Indianapolis by and through its Board of Public Works or its agent and declaring a time when the same shall take effect.

Very truly yours,

L. ERT SLACK,

Mayor.

COMMUNICATIONS FROM CITY OFFICIALS

March 4, 1929.

To the Honorable President and Members of the Common Council of Indianapolis:

Gentlemen:

I have been requested by the Board of Public Safety to submit the attached Appropriation Ordinance, No. 4, 1929, which authorizes the Board of Public Safety to purchase fifteen hundred (1500) rubber "Stop" signs, and appropriates from the estimated unappropriated and unexpended balance of the general fund for the year 1929 the sum of

March 4, 1929)

City of Indianapolis, Ind.

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Eleven Thousand (\$11,000.00) Dollars to Police Department Fund No. 44 for said purpose.

I respectfully recommend the passage of this ordinance.

Very truly yours,

STERLING R. HOLT,

City Controller.

March 4, 1929.

S. R. Holt, City Controller, City of Indianapolis.

Dear Sir:

We are submitting herewith an appropriation ordinance for the purchase of fifteen (1500) hundred rubber stop signs and providing for the appropriation of funds for this purchase, which you will please submit to the Council for their action.

Yours very truly,

BOARD OF PUBLIC SAFETY,

By: Fred. W. Connell, President..

March 2, 1929.

To the Members of the Common Council, Indianapolis, Indiana:

Gentlemen:

I hand you herewith fourteen (14) copies of an ordinance annexing territory east of Ralston Avenue and north of 59th Street, to the City of Indianapolis.

This property lies within the district to be served by a proposed main storm drain, which, if this annexation is made, can be done entirely by the Board of Public Works and it will be unnecessary to carry same through the courts.

Yours very truly,

A. H. MOORE,

City Civil Engineer.

March 4th, 1929.

To the Members of the Common Council, Indianapolis, Indiana:

Gentlemen:

I am handing you herewith fourteen (14) copies of an ordinance covering fees for testing materials, for your consideration.

The passage of this ordinance is requested to make the fees for this type of work near the standard price for this service.

Yours truly,

A. H. MOORE,

City Civil Engineer.

REPORTS FROM STANDING COMMITTEES

Indianapolis, Ind., March 4, 1929.

*To the President and Members of the Common Council
of the City of Indianapolis, Indiana:*

Gentlemen:

We, your Committee on Finance, to whom was referred Appropriation Ordinance No. 3, 1929, entitled appropriating \$20,064.50 for unpaid 1928 bills, beg leave to report that we have had said ordinance under consideration, and recommend that the same be passed.

E. W. HARRIS,

Chairman.

ROBT. E. SPRINGSTEAN,

ALBERT F. MEURER.

Indianapolis, Ind., March 4, 1929.

*To the President and Members of the Common Council of
the City of Indianapolis, Indiana:*

Gentlemen:

We, your Committee on Finance, to whom was referred General

Ordinance No. 6, 1929, entitled Transfer of \$15,000 in Board of Works funds, beg leave to report that we have had said ordinance under consideration, and recommend that the same be passed.

E. W. HARRIS,
Chairman.
ROBT. E. SPRINGSTEEN,
ALBERT F. MEURER.

Indianapolis, Ind., March 4, 1929.

*To the President and Members of the Common Council of
the City of Indianapolis, Indiana:*

Gentlemen:

We, your Committee on Finance, to whom was referred General Ordinance No. 10, 1929, entitled Authorizing Purchase of \$20,600.00 of Equipment, beg leave to report that we have had said ordinance under consideration, and recommend that the same be passed.

E. W. HARRIS,
Chairman.
ROBT. E. SPRINGSTEEN,
ALBERT F. MEURER.

Indianapolis, Ind., March 4, 1929.

*To the President and Members of the Common Council of
the City of Indianapolis, Indiana:*

Gentlemen:

We, your Committee on Public Works, to whom was referred Appropriation Ordinance No. 2, 1929, entitled Transfer \$15,000 to Board of Works Fund No. 26, beg leave to report that we have had said ordinance under consideration, and recommend that the same be passed.

ALBERT F. MEURER,
Chairman.
EARL BUCHANAN,
MEREDITH NICHOLSON,
ROBT. E. SPRINGSTEEN.

Indianapolis, Ind., March 4, 1929.

*To the President and Members of the Common Council of
the City of Indianapolis, Indiana:*

Gentlemen:

We, your Committee on Public Works, to whom was referred General Ordinance No. 7, 1929, entitled \$14,000 Bond Issue, Central Avenue Bridge, beg leave to report that we have had said ordinance under consideration, and recommend that the same be passed.

ALBERT F. MEURER,
Chairman.
EARL BUCHANAN,
MEREDITH NICHOLSON,
ROBT. E. SPRINGSTEEN.

INTRODUCTION OF APPROPRIATION ORDINANCES

By City Comptroller:

APPROPRIATION ORDINANCE 4, 1929

AN ORDINANCE authorizing the Board of Public Safety to purchase fifteen hundred (1500) rubber "Stop" signs, and appropriating from the estimated unappropriated and unexpended balance of the general fund for the year 1929 the sum of Eleven Thousand Dollars (\$11,000.00) to Police Department Fund No. 44, of the Board of Public Safety for said purpose.

*Be It Ordained by the Common Council of the City of
Indianapolis, Indiana:*

Section 1. That the Board of Public Safety of the City of Indianapolis is hereby authorized to purchase fifteen hundred (1500) rubber "Stop" signs, or warning signals, for use on the city streets.

Section 2. That there be and is hereby appropriated out of the estimated unappropriated and unexpended balance of the general fund for the year 1929 and transferred to Police Department Fund No. 44 of the Board of Public Safety, the sum of Eleven Thousand Dollars (\$11,000.00) for the purpose of purchasing said rubber "Stop" signs.

Section 3. This ordinance shall be in full force and effect from and after its passage and publication according to law.

Which was read a first time and referred to the Committee on Finance.

INTRODUCTION OF GENERAL AND SPECIAL ORDINANCES

By City Engineer :

GENERAL ORDINANCE 11, 1929

AN ORDINANCE providing a permit for testing materials; providing fees for testing to be paid the City Controller; providing a certified copy of all tests made, and declaring a time when the same shall take effect.

Be It Ordained by the Common Council of the City of Indianapolis, Indiana:

Section 1. Upon payment to the City Controller of the testing fees herein named, the City Controller shall issue a permit for testing of materials by the city testing laboratory. Such materials shall be provided by any person, firm or corporation in Indianapolis, Indiana.

Any person, firm or corporation submitting materials to be tested shall deposit the testing permit with the materials at a place named by the person or persons in charge of the testing laboratory, and after such tests are made and certified to, such tested materials shall be removed from the premises as directed by the laboratory officials.

The testing laboratory shall issue a certified test in duplicate of all tests for which a permit was issued by the City Controller.

Section 2. The fees to be paid to the City Controller for a permit for testing shall be as follows, to-wit:

- (1) Two cents (2c) for every barrel of cement tested.
- (2) Two dollars (\$2.00) for each test in compression in which the loaded surface exceeds four (4) square inches in area.
- (3) Twenty-five cents (25c) for each test in compression in which the loaded surface does not exceed four (4) square inches in area, provided that the specimens for test shall be delivered to the laboratory in a proper condition for testing without capping or other treatment.
- (4) Two dollars (\$2.00) for each test in compression in which the loaded surface does not exceed four (4) square inches in area, but the specimens require capping or other treatment.

(5) Five dollars (\$5.00) for the first test in tension with an additional charge of one dollar (\$1.00) for each additional test of specimens submitted in the same lot.

(6) Five dollars (\$5.00) for the first test in flexure with an additional charge of one dollar (\$1.00) for each additional test of specimens submitted in the same lot.

No permit shall be issued for a less sum than one dollar (\$1.00).

Before applying to the City Controller for a Testing Permit, the applicant shall submit the material desired to be tested to the testing laboratory officials for examination and approval. The laboratory officials may refuse to test any materials offered if in their opinion the specimens are not in a proper condition for test or will require more preparation than is justified by the testing fee applying.

Section 3. The City Engineer may order tests at any time they may determine of any material used in the construction of any work or works, both public and private. When such tests are ordered the person or persons, firm or corporation in charge of the construction work or works shall take out a testing permit from the City Controller within a reasonable time and shall furnish the testing laboratory with the materials selected by the City Engineer or his lawful representatives.

Section 4. Any person, firm or corporation or representative therefor who shall violate any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and shall be punishable upon conviction by a fine in such case of ten dollars (\$10.00) and not over three hundred dollars (\$300.00). Each day any violation shall continue shall be considered a separate offense.

Section 5. This ordinance shall be in full force and effect from and after its passage and due publication as required by law.

Which was read a first time and referred to the Committee on Public Safety.

By City Engineer:

SPECIAL ORDINANCE 4, 1929

AN ORDINANCE ANNEXING CERTAIN TERRITORY TO THE CITY OF INDIANAPOLIS, AND DEFINING A TIME WHEN THE SAME SHALL TAKE EFFECT.

Be It Ordained by the Common Council of the City of Indianapolis, Indiana:

Section 1. That the boundary lines of the City of Indianapolis be and the same are hereby extended so as to include the following

contiguous territory, all of which is hereby annexed to and made a part of the territory constituting the City of Indianapolis, Marion County, State of Indiana.

Section 2. Beginning at a point on the present corporation line of the City of Indianapolis, said point being on the center line of Ralston Avenue fifty (50) feet south of the south line of the north one-half ($\frac{1}{2}$) of Section six (6) Township sixteen (16) North, Range four (4) East, said half section line being the center of what is now known as 59th Street; thence east along a line fifty (50) feet south and parallel to the aforescribed half section line to the center line of Evanston Avenue produced south; thence north along this center line extension and along the center line of Evanston Avenue a distance of nine hundred four (904) feet, more or less, to the present corporation line; thence west along the present corporation line, to a point in the center line of Ralston Avenue, the present corporation line, said point being eight hundred fifty-four (854) feet, more or less, north of the center line of 59th Street; thence south along the center line of Ralston Avenue, the present corporation line, to the place of beginning.

Section 3. This ordinance shall be in full force and effect from and after its passage.

Which was read a first time and referred to the Committee on Law and Judiciary.

Mr. Meurer asked for a suspension of the rule requiring 14 copies of an ordinance to be in the hands of the City Clerk by noon of Council meeting day, so that the Council might receive General Ordinance 12, 1929.

The motion was seconded by Mr. Springsteen and passed by the following roll call vote:

Ayes, 7, viz: Mr. Buchanan, Mr. Harris, Mr. Meurer, Mr. Nicholson, Mr. Rathert, Mr. Springsteen, President Raub.

By Park Board:

GENERAL ORDINANCE 12, 1929

AN ORDINANCE providing the sum of \$1,630.25 from the unappropriated balance of the general fund of the Department of Public

Parks for the year 1928, and providing the sum of \$576.35 from the unappropriated balance of the general fund of the Recreation Department for the year 1928 to certain items of the budget for the year 1929 of said Departments with which to provide for the payment of certain bills and debts incurred by said Departments during the year 1928, but unpaid during said year and still remaining due and unpaid; and further providing for the transferring of moneys from certain funds and reappropriating the same to other numbered funds and fixing a time when the same shall take effect.

Whereas, on December 31, 1928, there was carried over into the year 1929 a balance in the general fund of the Department of Public Parks for said year 1928 the sum of \$31,659.34, and there was carried over in the general fund of the Recreation Department for the year 1928 the sum of \$8,222.93; and

Whereas, the said Departments have no funds with which to pay some unpaid bills and obligations unless the money is appropriated from said general funds of said respective Departments; and

Whereas, an extraordinary emergency exists for the appropriating of said moneys to pay said unpaid bills and to transfer and appropriate the funds hereinafter described with which to provide for the current obligations of said respective Departments for the year 1929:

Be It Ordained by the Common Council of the City of Indianapolis, Indiana:

Section 1. That there be and is hereby appropriated out of the unappropriated balance of the general fund of the Department of Public Parks from the year 1928, and transferred to the various items of said Park Department funds as hereinafter set forth:

To Fund No. 2—Services, Contractual.....	\$583.87
To Fund No. 3—Supplies	861.42
To Fund No. 4—Materials.....	178.96
To Fund No. 5—Current Charges.....	6.00
 Total	 \$1,630.25

Section 2. That there be and is hereby appropriated out of the unappropriated balance of the general fund of the Recreation Department for the year 1928, and transferred to the various funds of said Department as hereinafter set forth:

To Fund No. 2—Services, Contractual.....	\$285.96
To Fund No. 3—Supplies.....	285.38
To Fund No. 4—Materials.....	.78
To Fund No. 7—Properties.....	4.23
	<hr/>
	\$576.35

Section 3. (a) That the sum of \$300.00 now in Fund No. 121 of the Department of Public Parks be and the same is hereby transferred therefrom and re-appropriated to Fund No. 111 of said Department.

(b) That the sum of \$140.00 now in Fund No. 121 of the Department of Public Parks be and the same is hereby transferred therefrom and re-appropriated to Fund No. 112 of said Department.

(c) That the sum of \$560.36 now in Fund No. 121 of the Department of Public Parks be and the same is hereby transferred therefrom and re-appropriated to Fund No. 113 of said Department.

(d) That the sum of \$3,000.00 now in Fund No. 121 of the Department of Public Parks be and the same is hereby transferred therefrom and re-appropriated to Fund No. 22 of said Department.

(e) That the sum of \$400.00 now in Fund No. 25 of the Department of Public Parks be and the same is hereby transferred therefrom and re-appropriated to Fund No. 21 of said Department.

(f) That the sum of \$800.00 now in Fund No. 24 of the Department of Public Parks be and the same is hereby transferred therefrom and re-appropriated to Fund No. 26 of said Department.

(g) That the sum of \$250.00 now in Fund No. 36 of the Department of Public Parks be and the same is hereby transferred therefrom and re-appropriated to Fund No 45 of said Department.

(h) That the sum of \$1,000.00 now in Fund No. 32 of the Department of Public Parks be and the same is hereby transferred therefrom and re-appropriated to Fund No. 38 of said Department.

(i) That the sum of \$130.00 now in Fund No. 121 of the Department of Public Parks be and the same is hereby transferred therefrom and re-appropriated to Fund No. 38 of said Department.

(j) That the sum of \$2,000.00 now in Fund No. 43 of the Department of Public Parks be and the same is hereby transferred therefrom and re-appropriated to Fund No. 71 of said Department.

(k) That the sum of \$1,000.00 now in Fund No. 43 of the Department of Public Parks be and the same is hereby transferred therefrom and re-appropriated to Fund No. 72 of said Department.

(l) That the sum of \$1,000.00 now in Fund No. 44 of the Department of Public Parks be and the same is hereby transferred therefrom and re-appropriated to Fund No. 72 of said Department.

Section 4. (a) That the sum of \$538.82 now in Fund No. 112 of the Recreation Department be and the same is hereby transferred therefrom and re-appropriated to Fund No. 111 of said Department.

(b) That the sum of \$650.00 now in Fund No. 26 of the Recreation Department be and the same is hereby transferred therefrom and re-appropriated to Fund No. 21 of said Department.

(c) That the sum of \$1,100.00 now in Fund 44 of the Recreation Department be and the same is hereby transferred therefrom and re-appropriated to Fund No. 51 of said Department.

(d) That the sum of \$5,000.00 now in Fund No. 71 of the Recreation Department be and the same is hereby transferred therefrom and re-appropriated to Fund No. 113 of said Department.

(e) That the sum of \$2,041.18 now in Fund No. 72 of the Recreation Department be and the same is hereby transferred therefrom and re-appropriated to Fund No. 113 of said Department.

(f) That the sum of \$1,600.00 now in Fund No. 72 of the Recreation Department be and the same is hereby transferred therefrom and re-appropriated to Fund No. 32 of said Department.

(g) That the sum of \$300.00 now in Fund No. 26 of the Recreation Department be and the same is hereby transferred therefrom and re-appropriated to Fund No. 22 of said Department.

(h) That the sum of \$190.00 now in Fund No. 72 of the Recreation Department be and the same is hereby transferred therefrom and re-appropriated to Fund No. 22 of said Department.

(i) That the sum of \$50.00 now in Fund No. 36 of the Recreation Department be and the same is hereby transferred therefrom and re-appropriated to Fund No. 41 of said Department.

(j) That the sum of \$50.00 now in Fund No. 54 of the Recreation Department be and the same is hereby transferred therefrom and re-appropriated to Fund No. 41 of said Department.

(k) That the sum of \$168.82 now in Fund No. 72 of the Recreation Department be and the same is hereby transferred therefrom and re-appropriated to Fund No. 41 of said Department.

(l) That the sum of \$131.18 now in Fund No. 112 of the Recreation Department be and the same is hereby transferred therefrom and re-appropriated to Fund No. 41 of said Department.

Section 5. This ordinance shall take effect from and after its passage and publication according to law.

Which was read a first time and referred to the Committee on Parks.

Mr. Meurer asked and received permission of the Council to introduce Resolution 2, 1929.

By Park Board:

RESOLUTION 2, 1929

Whereas, the City of Indianapolis, by and through its Board of Park Commissioners, on the 27th day of February, 1929, filed its petition in the Marion Circuit Court, Cause No. 3104, for the appointment of appraisers to appraise certain personal property of the City of Indianapolis in the custody of the Department of Public Parks; and

Whereas, on said 27th day of February, 1929, the Circuit Court of Marion County appointed Richard C. Hurley, Charles Campbell and George Van Dyke, Jr.; and

Whereas, the property sought to be disposed of by said Department of Public Parks is as follows:

- 1 Dodge Roadster No. 48, 1925 Model;
- 1 White Oiler and Distributor;
- 1 Adaptable Tractor; and

Whereas, said appraisers so appointed by the Marion County Circuit Court did appraise said property, and the total appraised value thereof was the sum of One Hundred Ten Dollars (\$110).

Resolved by the Common Council of the City of Indianapolis, Indiana:

First. That the Board of Park Commissioners of the City of Indianapolis is hereby authorized to dispose of certain personal property of the City of Indianapolis, to-wit:

- 1 Dodge Roadster No. 48, 1925 Model;
- 1 White Oiler and Distributor;
- 1 Adaptable Tractor;

for not less than two-thirds of its appraised value.

Second. That the action of said Board of Park Commissioners in disposing of said personal property is in all things approved.

Which was read a first time and referred to the Committee on Parks.

REPORTS OF STANDING COMMITTEES

Indianapolis, Ind., March 4, 1929.

To the President and Members of the Common Council of the City of Indianapolis, Indiana:

Gentlemen:

We, your Committee on Parks, to whom was referred Resolution Ordinance No. 2, 1929, beg leave to report that we have had said ordinance under consideration, and recommend that the same be passed.

ALBERT F. MEURER,
 Acting Chairman.
 PAUL E. RATHERT,
 MEREDITH NICHOLSON.

ORDINANCES ON SECOND READING

Mr. Harris called for General Ordinance 6, 1929, for second reading. It was read a second time.

On motion of Mr. Harris, seconded by Mr. Rathert, General Ordinance 6, 1929, was ordered engrossed, read a third time, and placed upon its passage.

General Ordinance 6, 1929, was read a third time by the Clerk, and passed by the following roll call vote:

Ayes, 7, viz: Mr. Buchanan, Mr. Harris, Mr. Meurer, Mr. Nicholson, Mr. Rathert, Mr. Springsteen, President Raub.

Mr. Harris called for General Ordinance 10, 1929, for second reading. It was read a second time.

On motion of Mr. Harris, seconded by Mr. Buchanan, General Ordinance 10, 1929, was engrossed, read a third time and placed upon its passage.

General Ordinance 10, 1929, was read a third time by the Clerk, and passed by the following roll call vote:

Ayes, 7, viz: Mr. Buchanan, Mr. Harris, Mr. Meurer, Mr. Nicholson, Mr. Rathert, Mr. Springsteen, President Raub.

Mr. Harris called for Appropriation Ordinance 3, 1929, for second reading. It was read a second time.

On motion of Mr. Harris, seconded by Mr. Rathert, Appropriation Ordinance 3, 1929, was ordered engrossed, read a third time, and placed upon its passage.

Appropriation Ordinance 3, 1929, was read a third time by the Clerk, and passed by the following roll call vote:

Ayes, 7, viz: Mr. Buchanan, Mr. Harris, Mr. Meurer,

Mr. Nicholson, Mr. Rathert, Mr. Springsteen, President Raub.

Mr. Meurer called for General Ordinance 7, 1929, for second reading. It was read a second time.

On motion of Mr. Meurer, seconded by Mr. Springsteen, General Ordinance 7, 1929, was ordered engrossed, read a third time, and placed upon its passage.

General Ordinance 7, 1929, was read a third time by the Clerk and passed by the following roll call vote.

Ayes, 7, viz: Mr. Buchanan, Mr. Harris, Mr. Meurer, Mr. Nicholson, Mr. Rathert, Mr. Springsteen, President Raub.

Mr. Meurer called for Appropriation Ordinance 2, 1929, for second reading. It was read a second time.

On motion of Mr. Meurer, seconded by Mr. Buchanan, Appropriation Ordinance 2, 1929, was ordered engrossed, read a third time, and placed upon its passage.

Appropriation Ordinance 2, 1929, was read a third time by the Clerk and passed by the following roll call vote:

Ayes, 7, viz: Mr. Buchanan, Mr. Harris, Mr. Meurer, Mr. Nicholson, Mr. Rathert, Mr. Springsteen, President Raub.

UNFINISHED BUSINESS

On motion of Mr. Springsteen, seconded by Mr. Buchanan, General Ordinance 3, 1929, as amended, was or-

dered engrossed, read a third time, and placed upon its passage.

General Ordinance 3, 1929, was read a third time by the Clerk, as amended, and passed by the following roll call vote:

Ayes, 6, viz: Mr. Buchanan, Mr. Harris, Mr. Nicholson, Mr. Rathert, Mr. Springsteen, President Raub.

Noes, 1, viz: Mr. Meurer.

Mr. Meurer asked for suspension of the rules, for consideration of Resolution 2, 1929.

The motion was seconded by Mr. Nicholson, and passed by the following roll call vote:

Ayes, 7, viz: Mr. Buchanan, Mr. Harris, Mr. Meurer, Mr. Nicholson, Mr. Rathert, Mr. Springsteen, President Raub.

Mr. Meurer called for Resolution 2, 1929, for second reading. It was read a second time.

On motion of Mr. Meurer, seconded by Mr. Nicholson, Resolution 2, 1929, was ordered engrossed, read a third time, and placed upon its passage.

Resolution 2, 1929, was read a third time by the Clerk, and passed by the following roll call vote:

Ayes, 7, viz: Mr. Buchanan, Mr. Harris, Mr. Meurer, Mr. Nicholson, Mr. Rathert, Mr. Springsteen, President Raub.

Mr. Harris asked that correspondence between Mr. Orr, of the State Board of Accounts, and Mr. Ogden, Attorney-General of Indiana, concerning the matter of salaries in the Board of Health, the Park Board and the Sanitary Board, be incorporated in the Council Journal for this meeting. With the consent of the Council, the Clerk was instructed to have the correspondence included in the printed proceedings.

DEPARTMENT OF INSPECTION AND SUPERVISION
OF PUBLIC BUILDINGS OF INDIANA
STATE BOARD OF ACCOUNTS

LAWRENCE F. ORR
State Examiner

Indianapolis, January 31, 1929.

Oren S. Hack, Corporation Counsel, Indianapolis, Indiana.

Dear Sir:

On January 18th, 1929, you submitted to this department a question concerning the budget law as it applies to the Board of Health, the Park Board and the Sanitary Board. With your letter was a copy of statement, facts and memorandum submitted to you by attorneys for Board of Health and Board of Park Commissioners, respectively.

All of this was by us submitted to the Attorney General for his opinion and we enclose herewith a copy of his reply to us.

Very truly yours,

(Signed) LAWRENCE F. ORR,

State Examiner.

January 31, 1929.

*Mr. Lawrence F. Orr, State Examiner, Indianapolis,
Indiana.*

Dear Sir:

I have before me your letter of January 21st, 1929, asking for an interpretation of the provisions of the budget law as it affects the oper-

ation of the Board of Health, the Park Board and the Sanitary Board of the City of Indianapolis. The special question has to do with the power of these respective boards, after the establishment of the levy pursuant to the provisions of Section 200 of the Act of 1919 concerning taxation (Acts 1919, p. 198 et seq.), as said section was amended in 1921 and thereafter in 1927—with the power of said boards to increase the compensation of employes above that set out in the budget and pursuant to which the levy was made.

Submitted with your letter is the letter of the corporation counsel for the City of Indianapolis of January 18, 1929, also the letter of the attorneys for the Board of Health for the City of Indianapolis, and for the Board of Park Commissioners.

An examination of Section 200, supra, as amended in 1921 reveals the following:

“The several tax levies shall be established by the proper legal officers of any municipal corporation after the formulation and publication by them of a budget on forms prescribed by the State Board of Accounts **showing in detail** the money proposed to be expended during the succeeding year, the valuation of all taxable property within the jurisdiction and the rate of taxation which it is proposed to establish, and after a public hearing within the jurisdiction at which any taxpayer shall have a right to be heard thereon.”

This section of the statute was further amended in 1927 (Acts 1927, p. 247). The 1927 amendment contains among other things the above quoted part of the section with immaterial variations and in addition, among others, the following important provisions:

“When such State Board of Tax Commissioners in its order shall order a reduction in the levy it shall indicate the item or items in the budget affected by such reduction, and the budget as set out by the municipal officers in the published statement or as modified on hearing by the State Board shall **limit the expenditure** for the year, except in cases of casualty or accident or extraordinary emergency.”

The amended section then proceeds to set out the procedure to be followed in case of an extraordinary emergency, which is not important in the consideration of this particular question.

The amended section also contains the following provision:

“Any officer or officers of any municipal corporation having authority by law to make appropriations for the expenditure of public money, who shall appropriate any money for any item set forth in the published budget, or for any item as modified on the order of the State Board of Tax Commissioners, in excess of the amount estimated to be expended in such budget, or in excess of any addition expenditures without having first given notice to the taxpayers and allowing taxpayers the right to appeal to the State Board of Tax Commissioners, as herein provided, shall be guilty of malfeasance in office and shall be liable to such municipal corporation in the amount of such

excess so appropriated, together with the costs of said action and reasonable attorney fees with a penalty of 25 per cent, etc."

It will be noted that the above section of the act contemplates the formulation and publication of a budget on forms showing "in detail the money proposed to be expended." When the question shall be presented to the State Tax Board upon petition and the State Tax Board orders a reduction, the State Tax Board is required to "indicate the item or items in the budget affected by such reduction." It is made malfeasance in office for an officer of a municipal corporation who is authorized to make appropriations to appropriate any money for any item set forth in the published budget in excess of the amounts estimated to be expended in such budget. It seems to me that the intent is very obvious, namely, to limit the expenditure for any item strictly to the amounts in the published budget upon which the levy was based.

The only question remaining for consideration, if I am correct, in this conclusion, is as to whether the act of 1927 can be construed with previous acts relating to the establishment of Park Boards and Boards of Sanitary Commissioners so as to leave unimpaired provisions contained in such acts generally speaking to the effect that funds derived from taxation pursuant to such acts are to be under the exclusive control of such boards?

It is a general rule of statutory construction that when a section of an act is amended such amendment has a prospective operation from the time it went into force just as if it were written bodily into the original act. It seems to me, therefore, that so far as this particular provision is concerned it can not be construed simply as an independent piece of legislation but must be construed as a part of the general scheme relating to taxation and public expenditures. Viewed in this manner it seems to me that it does not leave such general provisions as above referred to unimpaired. It is my opinion, therefore, that the boards above referred to are limited to the amounts specified in the published budget upon which the levies were made, and that the various items of expenditures can not be intermingled or shifted from one item to another under the law as it now exists.

Very respectfully,

(Signed) JAMES M. OGDEN,

Attorney General.

On motion of Mr. Buchanan, seconded by Mr. Springsteen, the Common Council adjourned at 8:45 P. M.

We hereby certify that the above and foregoing is a full, true and complete record of the proceedings of the Common Council held Monday, March 4th, at 7:30 P. M.

In witness whereof we have hereunto subscribed our

signatures and caused the seal of the City of Indianapolis to be affixed.

Edward B. Raub,

Attest:

President.

William A. Boyce, Jr.

(SEAL)

City Clerk.