

Letter from State Law Department on House Bill No. 527

April 15, 1965.

The Honorable J. Millard Tawes
Governor of Maryland
State House
Annapolis, Maryland 21404

Re: House Bill No. 527

Dear Governor Tawes:

At your request, we have examined House Bill 527 and we believe that this Bill would not be constitutional.

House Bill 527 seeks to provide that an increase in pensions be made applicable to bailiffs who had retired prior to January 1, 1964, when the increase in pensions became effective, if any said bailiff shall have served at least ten consecutive years prior to retirement. In so doing, the Bill amends Chapter 849 of the Acts of 1963 which had provided that the increase in pensions would not be applicable to any bailiff who retired or left his position prior to January 1, 1964.

On May 3, 1963, this office approved House Bill 866 which became Chapter 849 of the Acts of 1963. Part of our consideration in finding the said Bill to be proper as to form and legal sufficiency was the fact that the Bill did specifically prohibit its application to those bailiffs who had previously retired.

On May 3, 1963, we wrote you that House Bill 648 would not be constitutional partially on the ground that it would violate Article III, Section 35 of the Constitution of Maryland, which provides, in part:

“No extra compensation shall be granted or allowed by the General Assembly to any public Officer, Agent, Servant or Contractor, after the service shall have been rendered, or the contract entered into; . . .”

In accordance with our previous opinion, we believe that to provide, or increase, a pension for former bailiffs who are no longer bailiffs would be extra compensation granted to a public servant after the services have been rendered.

For the reasons set forth above, we believe that House Bill 527 could not constitutionally apply to bailiffs who have retired prior to January 1, 1964.

Very truly yours,

(s) Thomas B. Finan,
Attorney General.

The Speaker put the question: Shall the bill pass notwithstanding the objections of the Executive?

Affirmative

Delegates Maguire, Latham, Blair, Mitchell.

Total—4