actually act only in an advisory capacity, and more nearly come within the term "personnel" (as used in Burns' (1951 Repl.), Section 63-1306, supra) necessary to the discharge of the duties of the Medical Board in matters relating to their particular field of practice of Physical Therapy. Since they act in such a capacity, it would seem that the members of the committee are entitled to a salary or per diem (salary for a day's work), subject to the approval of the Budget Committee. In addition, they are entitled to a per diem for traveling expenses and transportation as fixed by the Budget Committee under the Acts of 1957, Ch. 285, Sec. 3, as these expenses are necessarily a part of the administration of the provisions of said statute and said administrative costs are clearly authorized under Sec. 11 of the Physical Therapy Law, supra.

I am therefore of the opinion that the Board of Medical Registration and Examination of Indiana could by resolution provide for the payment of a salary or per diem to members of the examining committee for Physical Therapists, said salary or per diem to be subject to the approval of the State Budget Committee, and that they would be entitled to the traveling and transportation expenses in connection with their duties approved by the Budget Committee, all of the above to be paid from funds received as fees under said Physical Therapy Act.

OFFICIAL OPINION NO. 55

December 5, 1957

Hon. Frank A. Lenning
Secretary of State
201 State House
Indianapolis, Indiana

Dear Mr. Lenning:

Your letter, requesting an Official Opinion, has been received and reads as follows:

"We are requesting your opinion as to the fees to be charged by this office. What shall we charge a foreign corporation for additional shares doing business in this state, as reflected by its annual report as hereinafter stated?"

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"The usual procedure pertaining to a foreign corporation is that the foreign corporation files its report at the proper time with a filing fee of $2.00 and said report is filed in this office and marked on our index card. Thereafter, this office, as a courtesy to the corporation, sends a statement to any foreign corporation of the additional amount due, if any, by said corporation, as reflected by its current annual report.

"Last year a few corporations were not billed for the additional amount due and these corporations are now being billed for the additional amount due last year, as well as for this year, if the corporation owes an additional amount this year. The Corporation Fee Act of 1929 was repealed and a new fee act was enacted in 1957. The old fee act charged $0.01 per share for the increased number of shares, or a minimum of $10.00. Under the current act, the fee for additional shares will be $0.02 per share, or a minimum of $20.00.

"The annual report reflects the condition of the corporation as of the fiscal year ending the 30th day of June, 1957. An annual report cannot be filed until July 1, 1957 or later.

"1. What fees shall we charge a foreign corporation for additional amount due as shown by its 1956 report?

"2. What fees shall we charge a foreign corporation for additional amount due as shown by its 1957 report?

"3. What fees shall we charge a foreign corporation for additional amount due as shown by its 1957 report when the basic liability for additional fees occurred prior to the effective date of the New Fee Act?"

The Corporation Fee Act being Acts of 1929, Ch. 219, as found in Burns' (1948 Repl.), Sections 25-601 to 25-606, states what fees the Secretary of State should charge and how they should be computed, including the fee to charge a foreign corporation that increased its outstanding capital stock as shown by its annual report.

The Corporation Fee Act of 1957 being Acts of 1957, Ch. 230, as found in Burns' (1957 Supp.), Sections 25-601 to
25-606, has substantially the same wording as the 1929 Act and refers to the same subject-matter. However, the 1957 Act increases the fees to be charged by the Secretary of State, including an increase in the fee to be charged a foreign corporation that has increased its capital stock as shown by its annual report.

The Acts of 1957, Ch. 230, Sec. 6, supra, reads as follows:

“All laws or parts of laws in conflict herewith are hereby repealed.”

The Acts of 1957, Ch. 230, Sec. 8, supra, reads as follows:

“Whereas an emergency exists for the more immediate taking effect of this act, it shall be in full force and effect on and after July 1, 1957.”

It is apparent from the foregoing that the 1957 Act repealed the 1929 Act and that the 1957 Act became effective on July 1, 1957.

The Acts of 1877 (Spec. Sess.), Ch. 36, Sec. 1, as found in Burns’ (1946 Repl.), Section 1-307, reads, in part, as follows:

“* * * And the repeal of any statute shall not have the effect to release or extinguish any penalty, forfeiture or liability incurred under such statute, unless the repealing act shall so expressly provide; and such statute shall be treated as still remaining in force for the purposes of sustaining any proper action or prosecution for the enforcement of such penalty, forfeiture or liability.”


It is a rule, subject to some exceptions, that statutes have only a prospective operation.

Lewis v. Brackenridge (1822), 1 Blackf. 220;
Hopkins v. Jones (1864), 22 Ind. 310;
Niklaus v. Conkling (1888), 118 Ind. 289, 20 N. E. 797.
The rule is well established that a statute will be held as having retroactive effect only when the language of the statute imperatively requires the conclusion that it was the legislative intent that it should so operate.

Board of Comrs. of Morgan Co. v. Pritchett (1882), 85 Ind. 68;
The City of Connersville v. The Connersville Hydraulic Co. (1882), 86 Ind. 184;
White v. United States (1903), 191 U. S. 545, 48 L. Ed. 295, 24 S. Ct. 171;
Cameron v. United States (1914), 231 U. S. 710, 58 L. Ed. 448, 34 S. Ct. 244;
State of Indiana ex rel. Public Service Comm. of Indiana v. Vandalia R. Co. (1915), 183 Ind. 49, 108 N. E. 97;
Chadwick, Treasurer et al. v. City of Crawfordsville (1940), 216 Ind. 399, 24 N. E. (2d) 937.

The 1957 Act, supra, contains no language indicating any legislative intent to make the act retroactive. Therefore, said act must be construed to be prospective. Bouvier's Law Dictionary defines the word "prospective" as follows:

"That which is applicable to the future. It is used in opposition to retrospective."

When a foreign corporation increases its capital stock it is then liable to the State of Indiana for the amount prescribed by statute, although said fee is not computed until the annual report is filed with the Secretary of State.

In answer to your question number one, the 1957 Act is prospective and not retrospective; therefore, the fee charged a foreign corporation for increasing its capital stock as shown in its 1956 report should be computed on the fee basis prescribed by the 1929 Acts.

In answer to your questions numbers two and three, the fee you should charge a foreign corporation for increasing its capital stock as shown in its 1957 report should be computed on the amount stated in the 1929 Acts, if said increase
occurred prior to the effective date of the 1957 Act. If the increase of capital stock occurred after the effective date of the 1957 Act, you should compute the fee on amounts stipulated in the 1957 Act.

OFFICIAL OPINION NO. 56

December 6, 1957

Mr. Paul L. Myers
Chairman
State Board of Correction
210 State House
Indianapolis, Indiana

Dear Mr. Myers:

I have your request dated October 4, 1957, in which you ask the following questions:

"(1) What is the minimum age at which male offenders may be committed to the Indiana State Farm?

"(2) Can juvenile offenders be committed to the Indiana Boys' School for the commission of crime?

"(3) Do municipal or city courts, having committed offenders to the Indiana State Farm, have the power by letter—or otherwise, to reduce penalties after the person has started serving the sentence at the Farm?

"Does the Superintendent of the State Farm have to recognize such change of sentence?

"(4) Under the Acts of 1957, Chapter 356, Page 1040, it is provided that persons 15 years of age may be transferred to the Criminal Division of the Court for trial as an adult. If a person 15 years of age is convicted of a felony, to what institution would he be committed?"

I am unaware of any statute which establishes a minimum age at which male offenders may be committed to the Indiana State Farm. However, I know of no situation in which a boy under the age of 15 years could legally be sentenced to the