four-year term to begin, sets the beginning and ending date for all subsequent terms, and all vacancies would be filled for unexpired terms.

OFFICIAL OPINION NO. 12
May 11, 1955

Mr. Arnold H. Meister
State Fire Marshal
231 State House
Indianapolis, Indiana

Dear Sir:

This will acknowledge receipt of your letter of May 9, 1955, in which you request my opinion as follows:

"Chapter 154 of the Acts of 1939 concerns the sale and regulation of fireworks in the State of Indiana, and the Act provides a penalty for the violation thereof. The Title to the 1939 Act specifically referred to the fact that penalties were provided therein.

"The 1939 Act was amended by Chapter 251 of the Acts of 1951, and the 1951 Act, also, amended the Title to the 1939 Act, but did not refer to the imposition of penalties for the violation thereof.

"Your official opinion is respectfully requested as to whether the Penalty Section of 1939 Act is still in force."

Article 4, Sec. 19 of the Indiana Constitution provides as follows:

"Every act shall embrace but one subject and matters properly connected therewith; which subject shall be expressed in the title. But if any subject shall be embraced in an act, which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be expressed in the title."

The title of the Acts of 1939, Ch. 154, as found in Burns' Indiana Statutes (1950 Repl.), Section 20-1101 et seq., is as follows:
"An act to prohibit the sale, offering or exposing for sale of fireworks, defining fireworks and to regulate the manner of using fireworks; and to provide penalties for the violation of the provisions of the act."

Section 6 of this Act, supra, as found in Burns' Indiana Statutes (1950 Repl.), Section 20-1106, made it a misdemeanor for any person to violate the provisions of said Act and imposed a fine not exceeding one hundred dollars ($100.00) or imprisonment in the county jail not exceeding ninety (90) days, or both, upon persons convicted of violating the provisions of said Act.

Under the original 1939 Act, it was unlawful to offer for sale, expose for sale, sell at retail or use or explode any fireworks in this state unless such activities were conducted by persons holding a permit granted by the State Fire Marshal; Acts of 1939, Ch. 154, Sec. 2, as found in Burns' Indiana Statutes (1950 Repl.), Section 20-1102.

In 1951, Section 2 of this Act was amended so as to also make it unlawful, "* * * to possess or transport within the state, * * *" any fireworks except by virtue of a permit granted by the State Fire Marshal; see Acts of 1951, Ch. 251, Sec. 1, as found in Burns' Indiana Statutes (1950 Repl., 1953 Supp.), Section 20-1102. The 1951 Act, supra, also amended the title to the 1939 Act which amended title reads as follows:

"An act to prohibit the transportation, sale, offering or exposing for sale of fireworks, and to regulate the manner of using fireworks."

The legislative intent in amending Section 2 of the Act, supra, and also the title to said Act, obviously was to broaden both the title and the body of the Act so as to include the prohibition against the possessing or transporting fireworks for use within the state.

In Republic Iron & Steel Co. v. State (1902), 160 Ind. 379, 66 N. E. 1005, the Court discussed an Act entitled:

"* * * 'An act providing for the weekly payment of wages due employes, making it unlawful for an employer to assess a fine against the wages of an employe, and regulating changes in rate of wages, prohib-
iting the assignment of future wages; providing for its enforcement and repealing all laws in conflict therewith.' * * *"

In discussing the question as to whether the penalty sections of said Act were void under the Indiana Constitution, Art. 4, Sec. 19, supra, because the title to said Act made no mention of penalties for the violation of its provisions, the Court said:

"The evident purpose in requiring a title to a legislative proposition was thereby to convey notice of the general subject to be affected to those who are called on to act upon it, and thus to prevent deception by the blending of incongruous subjects in the same act. It is only necessary that the general subject of the act be expressed—that is, be indicated—by the title. It is not essential that the means and methods provided in the act for the securing of intended results and ends shall be set forth in the title. The Constitution is satisfied if the constituent means embraced in the body of the act have a proper relation to each other and to the subject expressed in the title, and are consistent in tending to carry forward and to accomplish the general purpose indicated by the title and intended by the legislation. Isenhour v. State, 157 Ind. 517, 87 Am. St. 228; Lewis v. State, 148 Ind. 346; Benson v. Christian, 129 Ind. 535; City of Indianapolis v. Huegele, 115 Ind. 581.

"No act of the legislature can be made effective without some reasonable provision for its enforcement, and the assessment of a penalty for noncompliance has long and many times been recognized by the General Assembly and the courts of this State as an efficient and reasonable means of securing obedience. The subject of the act in question is 'to provide for the weekly payment of wages due,' and to secure performance of the duty thus imposed upon employers, a penalty is provided for non-performance. The penalty provision of § 2, supra, is, therefore, not only connected with and germane to the subject of the act, but calculated to be an effective means in accomplishing the purpose indicated by the title. Hence the provision is not within the evil intended by the Constitution to be excluded."
In the case at hand, the amended title, supra, was clearly sufficient to apprise the Legislature that the body of the Act prohibited the transportation, sale, offering or exposing for sale of fireworks and regulated the manner of using the fireworks. In any event, the title to the amendatory Act of 1951 set out the full title of the 1939 Act which expressly mentioned "penalties" and the fact that penalties were imposed could not have surprised anyone who read the title of the 1951 Act, supra. Further, I think the penalty provisions of the Act are properly connected with and germane to the subject thereof as expressed in the title and are also an effective means in accomplishing the purpose indicated by the title. That is, the title to the Act clearly indicates that the doing of certain things is to be prohibited by the body of the Act and I think that the imposition of a penalty for doing the thing prohibited by the Act is a detail which need not, in this case, be set out in the title: see Western Union Telegraph Co. v. Braxtan (1905), 165 Ind. 165, 169, 74 N. E. 985.

I am, therefore, of the opinion that the amended title to the Act is broad enough to include the penalty provisions contained in Section 6, supra, and that said penalties are in full force and effect.

OFFICIAL OPINION NO. 13
May 23, 1955

Mr. Harry E. Wells
Insurance Commissioner
240 State House
Indianapolis, Indiana

Dear Mr. Wells:

This is in reply to your letter of April 20, 1955, in which you request an Official Opinion as to the following:

"The recent Legislature passed a law amending the Old 1897 Law under which assessment insurance companies were exempt from premium tax. The amended law provides that such companies have to pay premium tax and this law was especially amended in order that