such increase would not violate the constitutional provision. The constitutional provision is to the effect that the salary of any officer fixed by the constitution or by law shall not be increased during the term for which such officer was elected or appointed. These particular officers, however, have no "term", and for that reason, if for no other, there would be no constitutional question involved.

DIVISION OF LABOR: Whether Senate Bill 130 of 1943 session is valid.

STATUTORY CONSTRUCTION: Effect of legislation purporting to amend a section previously amended.

March 24, 1943.

Mrs. Mary L. Garner, Director,
Bureau of Women and Children,
Division of Labor,
Room 225, State Capitol,
Indianapolis, Indiana.

Dear Mrs. Garner:

I have the following letter from you concerning the legality and effect of an amendment to an act when such amendment purports to amend an act which was previously amended during the same session of the legislature:

"The question has arisen as to whether Senate Bill No. 130 concerning pin boys in bowling alleys is legal as it amends the same section of the School Attendance Child Labor Law, Chapter 132, Acts of 1921, but does not make reference to House Bill No. 180. In other words, it does not amend the Law as it was already amended by House Bill No. 180."

"We feel that this matter is of importance and should be definitely settled as to the legality of Senate Bill No. 130 as it followed the enactment of House Bill No. 180 approved February 25, 1943—Kendall."

"Senate Bill No. 130 was approved March 6, 1943—Eichhorn, Miller."
I have compared the titles of Senate Bill No. 130 and House Bill No. 180 and found them to be the same. Each expressed the intention “to amend section 4 of an act entitled ‘An Act to amend Sec. 20 of an act entitled “An act concerning the school attendance and the employment of minors, fixing penalties and repealing conflicting laws,” approved March 7, 1921; and to amend Sections 1, 2 and 3 of an act entitled “An act to amend Sections 18, 19 and 21 of an act entitled ‘An act concerning the school attendance and the employment of minors, fixing penalties and repealing conflicting laws,’ approved March 7, 1921,” approved March 9, 1929, and declaring an emergency.” Each of the amendments carried an emergency clause for the purpose of making it immediately effective upon approval.

In this state when a section in an existing law is amended, it ceases to exist, and is effectually repealed and obliterated from the statute. The section as amended supersedes such original section and becomes incorporated in and constitutes a part of the original act. Our constitution provides that an amendatory act must profess to amend some act or section of an existing statute. Thus an amendatory statute which attempts to amend a section which has already been amended is unconstitutional and void.

Metsker v. Whitsell, 181 Ind. 126;
Blakemore v. Dolan, 50 Ind. 194.

The question presented in Metsker v. Whitsell was very similar to the one before us. In that case the court said:

“Each of the acts of March 14 and 15, 1913, respectively, purport to amend the same section of the highway law so as ‘to read as follows’, and the reading of the two acts is radically different. Both acts cannot be in effect, for there is but one section numbered 62 and it can read only one way.”

The court further stated:

“It has been held, often and consistently, by this court, that an amendatory act which purports to amend an act or section that has already been amended, is void as an amendatory act because the act or section sought to be amended has no existence.”
My answer to your letter is therefore based on precedent. Since House Bill No. 180 became effective February 25, 1943, Senate Bill No. 180, approved March 6, 1943, could not become operative and is null and void.

BOARD OF ACCOUNTS: Section 2 of Article 15 of Indiana Constitution relating to salary increases does not apply to officers having no fixed term.

March 26, 1943.

Hon. Otto K. Jensen,
State Examiner,
Department of Inspection and Supervision of Public Offices,
State House,
Indianapolis, Indiana.

Dear Mr. Jensen:

I am in receipt of your letter of March 23, 1943, requesting my opinion as to the interpretation to be placed upon chapter 131 of the Acts of 1943, which amended section 21 of chapter 233 of the Acts of 1933 by adding the following proviso:

"Provided, however, That nothing herein contained shall be so construed as to prevent the employment of the city engineer in a supervisory or managerial capacity with any utility, utilities, or sewage disposal plants owned and operated by such city and to receive compensation therefor in addition to any other amount provided herein, when such employment is authorized and compensation is fixed by an ordinance adopted by the common council."

Your question is as follows:

"Is the city engineer, now in office, prohibited by Article 15, Section 2 of the constitution of Indiana, as amended November 2, 1926, from receiving compensation for employment in a supervisory or managerial capacity of a utility, utilities or sewage disposal plants owned and operated by the city, in addition to his salary as engineer?"