

File No. 7330 Continued.

OPINION.

5511

to the Mayor, in reference to the right of the Mayor to remit the fine imposed upon Mr. Sidney Wasserman for violating Section 132, Chapter 449 of the Acts of 1906. Section 139 of this Act provides that a fine imposed under this Chapter, shall be turned over to the proper authorities of the Counties or City for road or street improvements. Section 6 of Article 10 of the Code of 1906, Pielert's Revision, page 730, reads as follows:- "The Mayor is authorized and empowered to remit so much of any fine or penalty as to him shall seem just and reasonable; provided that said power shall not exceed the cost of prosecution, and the Mayor shall hand over to the City Register a list of said fines remitted by him with the names of the person or persons to whom such fines were remitted."

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Section 6 is the only provision authorizing the remission of fines, and it is simply an ordinance of the Mayor and City Council of Baltimore. I can find no express Charter authority for the passage of this Ordinance; I presume, however, its validity would be upheld as far as penalties imposed by municipal ordinances are concerned, because the original ordinance imposing the penalty, having been enacted by the Mayor and City Council of Baltimore for its benefit, the enacting authority would have the right to waive the penalty in a proper case and might delegate this authority to the City's executive officer, the Mayor, in order thereby to avoid delay which might ensue in case the Mayor and City Council of Baltimore would remit the fine by ordinance only.

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I have been unable to find any case in which the question of ~~the right of the Mayor to remit a fine has been discussed and the~~ only reference thereto, which I have discovered is in Section 359 of McQuillin on Municipal Ordinances, in which the following language is used:- "And generally the Mayor possesses power to remit fines imposed for violation of Ordinances." The authority in support of this statement is merely a reference to the Charters of certain Cities and not to any adjudicated case, but I call attention to the language employed by Mr. McQuillin which restricts the right to the remission of fines imposed for violation of Ordinances.

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Inasmuch as there is no express legislative authority, I do not think that the Mayor is authorized to remit any fines imposed by an Act of Assembly. The right to remit flows from an Ordinance simply and if the Mayor were able to remit a fine imposed by statute,