

No. 146.

## AN ACT

To amend an act, approved the twenty-second day of April, one thousand nine hundred and five (Pamphlet Laws, two hundred and eighty-six), entitled "An act authorizing the courts of this Commonwealth to certify the evidence and enter judgment upon the whole record, whenever a request for binding instructions has been reserved or declined by the trial judge, and authorizing appeals from the judgment so entered, and the entry of the proper judgment in the Supreme or Superior Court," by authorizing appeals whenever under such circumstances the court shall decline to enter judgment upon the whole record but shall direct a new trial,

Section 1. Be it enacted, &c., That the act, approved the twenty-second day of April, one thousand nine hundred and five (Pamphlet Laws, two hundred and eighty-six), entitled "An act authorizing the courts of this Commonwealth to certify the evidence and enter judgment upon the whole record, whenever a request for binding instructions has been reserved or declined by the trial judge; and authorizing appeals from the judgment so entered, and the entry of the proper judgment in the Supreme or Superior Court," is hereby amended to read as follows:

Section 1. Be it enacted, &c., That whenever, upon the trial of any issue, a point requesting binding instructions has been reserved or declined, the party presenting the point may within the time prescribed for moving for a new trial, or within such other or future time as the court shall allow, move the court to have all the evidence taken upon the trial duly certified and filed so as to become part of the record, and for judgment non obstante veredicto upon the whole record; whereupon it shall be the duty of the court, if it does not grant a new trial, to so certify the evidence, and to enter such judgment as should have been entered upon that evidence, at the same time granting to the party against whom the decision is rendered an exception to the action of the court in that regard. From the judgment thus entered either party may appeal to the Supreme or Superior Court, as in other cases, which shall review the action of the court below, and enter such judgment as shall be warranted by the evidence taken in that court.

Section 2. Whenever a point requesting binding instructions has been reserved or declined, and the party presenting the point has moved to have the evidence certified and filed and for judgment non obstante veredicto in the manner set forth in section one hereof, and the court, after consideration of such motion, shall

Courts.

Act of April 22,  
1905 (P. L. 236),  
amended.

Requests for binding instructions reserved or declined.

Motion for new trial, to certify evidence and for judgment non obstante veredicto.

Duty of court to certify evidence.

Exception.

Appeal.

When court directs new trial.

*decline to enter judgment non obstante veredicto but shall direct a new trial then it shall be the duty of the court having directed such new trial to so certify the evidence and to grant an exception to the party whose motion for judgment non obstante veredicto has been declined. That party may thereupon forthwith appeal to the Supreme or Superior Court from the refusal to enter judgment in his favor upon his motion. The Supreme or Superior Court shall review the action of the court below, and shall enter such judgment for either party as shall be warranted by the evidence taken in that court, or shall affirm the action of that court in granting a new trial.*

Appeal.

Judgment.

Shall apply to cases pending.

*Section 3. The provisions of section two hereof, allowing appeals in certain cases shall apply to all such cases pending at the time of the passage hereof in which the order of court refusing the motion and directing a new trial shall have been entered, except those cases in which the new trial so ordered has actually occurred.*

APPROVED—The 9th day of April, A. D. 1925.

GIFFORD PINCHOT.

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No. 147.

### AN ACT

Providing for the payment by counties and poor districts of the salaries of officers where pending the settlement of a dispute the salary paid to such officer was less than the amount to which he was legally entitled.

Counties and poor districts.

Payment of deficiency in salary in case of dispute.

*Section 1. Be it enacted, &c., That whenever heretofore pending the settlement of a dispute any county or poor district has paid to a public officer a salary for the performance of his duties, and in subsequent legal proceedings brought in a court of record by such officer during his incumbency in office it was decided that the salary of such officer as fixed by law was in excess of the amount which was being paid by the county or poor district to such officer prior to such legal proceedings, then in any such case such officer shall be entitled to receive and be paid by the county or poor district responsible for the payment of the salary of such officer an amount equal to the difference between the amount to which he was legally entitled and the amounts received prior to such legal proceedings; and no failure on the part of such officer to appeal from the annual report of any auditor or board of auditors or controller shall be held to bar his right to recover the salary to which he was legally and mor-*