"In the resolution dismissing Appellant, none of the statutory grounds were mentioned as the reason for terminating her contract. Instead, the Board loosely characterized the move as being 'economical, efficient, productive * * *.' This amounts to saying that whenever the Board deems a teacher unnecessary for any reason whatever, the contract may be successfully terminated. In **Langan v. Pittston School District,** 335 Pa. 395, 399, 6 A. 2d 772, 774, we answered such a contention by saying: 'This, of course, was not the intention of the Act; it is directly opposed to it. The purpose of the Tenure Act, reiterated often in our opinions, was *"the maintenance of an adequate and competent teaching staff, free from political* [and personal] *or arbitrary interference, whereby capable and competent teachers might feel secure, and more efficiently perform their duty of instruction."'"* Ibid p. 155.

In this case, we find that the Appellant was improperly dismissed and that she is therefore entitled to reinstatement without loss of pay, in accordance with §1130 of the School Code.

The objections of the School District to the Secretary of Education's jurisdiction in this appeal are overruled; the appeal was filed within thirty days of Dr. Sutton's letter of September 26, 1973, informing the Appellant that she would not receive a hearing before the School Board in accordance with §1127 of the School Code.

Accordingly, we make the following

ORDER

AND NOW, to wit, this 20th day of May, 1974, it is ordered and decreed that the Appeal of JoEllen Lipperini be and is hereby sustained and the Wayne Highlands School District is hereby directed to reinstate JoEllen Lipperini as a professional employe, without loss of pay, and to place her in a position for which she is qualified and certificated.

* * * *

In re the Amount of Sick Leave Days accumulated by Frank W. Marra, a professional employe of the Mid-Valley School District, Lackawanna County, Pennsylvania

In the Office of the Secretary of Education, Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania

No. 238

OPINION

John C. Pittenger
Secretary of Education

Frank W. Marra, Appallant herein, has appealed from the decision of the Board of School Directors of the Mid-Valley School District that he is entitled to sixty-two (62) days of unused, accumulated sick leave.

FINDINGS OF FACT

1. Mr. Frank W. Marra has been an employe, through merger, of the Mid-Valley School District from the 1947-48 school year up through the present.
2. Mr. Marra became a professional employe at the beginning of the 1949-50 school year.
3. Mr. Marra filed his appeal in the Office of the Secretary of Education on February 15,

1973.
4. The school district filed an answer on March 19. 1973 alleging that no request was made by Mr. Marra for an administrative review by the school board of the proper amount of his accumulated sick leave.
5. Action by this Office was delayed until an attempt to resolve the matter at the local level had been made.
6. Because the parties were unable to reach agreement, a hearing in the Office of the Secretary of Education was scheduled for September 26, 1973; which hearing was rescheduled for October 16, 1973.
7. By stipulation of counsel for Mr. Marra and for the Board of School Directors of the Mid-Valley School District, it was agreed:

(a) If Section 1154(a) of the Public School Code of 1949 permitted the unlimited accumulation of unused sick leave days throughout the period Mr. Marra has been employed by the school district, Mr. Marra is entitled to an accumulation of one hundred thirty (130) sick leave days as of the end of the 1972-73 school year; but,

(b) If Section 1154(a) permitted the unlimited accumulation of unused sick leave days only after the amendatory act of 1968, January 19, (1967) P.L. 983, Mr. Marra is entitled to an accumulation of sixty-two (62) sick leave days.

DISCUSSION

This is the first appeal to be taken to the Secretary of Education under Section 1154(a) of the Public School Code of 1949, as amended, 24 P.S. §11-1154(a), which authorizes the Secretary of Education to resolve disputes involving the amount of sick leave accumulated by a professional or temporary professional employe. As a result of the stipulation entered into by counsel for Mr. Marra and for the Mid-Valley School Board of Directors, a factual determination, based on attendance records, of how many sick leave days Mr. Marra has accumulated is not necessary. Instead, this appeal is concerned with the proper interpretation of Section 1154(a) of the School Code.

The first statute providing for the accumulation of unused sick leave days was the Act of June 28, 1947, P.L. 1036, which amended Section 1206 of the school law of May 18, 1911, P.L. 309, as follows:

> "In any school year whenever a professional employe is prevented by illness from following his or her occupation, the school district shall pay to such professional employe for each day of absence the full salary to which the professional employe may be entitled as if said employe were actually engaged in the performance of duty for a period of five days: Provided, however, That such leave shall be cumulative from year to year, but shall not exceed twenty (20) days leave with full pay in any one year . . ."

This statute was incorporated almost verbatim into Section 1154 of the School Code of March 10, 1949, P.L. 30. The amendment of 1957, July 18, P.L. 1003, §1, substituted "ten" for "five" days and "thirty (30)" for "twenty (20)" days. Act 437, approved January 19, 1968, (1967) P.L. 983, amended the section in question to read as follows:

> "1154. Payment of salaries in cases of sickness, injury or death
>
> (a) In any school year whenever a professional or temporary professional employe is prevented by illness or accidental injury from following his or her occupation, the school district shall pay to said employe for each day of absence the full salary to which the employe may be entitled as if said employe were actually engaged

> in the performance of duty for a period of ten days. *Any such unused leave shall be cumulative from year to year in the school district of current employment or its predecessors without limitation. All or any part of such accumulated unused leave may be taken with full pay in any one or more school years.* No employe's salary shall be paid if the accidental injury is incurred while the employe is engaged in remunerative work unrelated to school duties."

Prior to the 1968 amendment, the underlined section had provided that:

> "Such leave shall be cumulative from year to year, but shall not exceed thirty (30) days leave with full pay in any one year."

The school district contends that unused sick leave days could not be accumulated without limitation until after the 1968 agreement. Prior to that time, the school district argues, an employe could not be credited with more than thirty unused sick leave days.

The question raised on this appeal has been raised before. In 1959 the Superintendent of Public Instruction, Charles H. Boehm, asked Attorney General Anne X. Alpern: "What is the proper interpretation of subsection (a) of Section 1154 as to total accumulation of sick leave?" In Official Opinion No. 187 of 1959, 18 Pa. D. & C. 2d 418 (1959), the Attorney General responded that Section 1154(a):

> ". . . provides that a professional or temporary professional employe shall be paid full salary for each day of absence due to illness or accidental injury up to 10 days. This establishes the number of days of sick leave which, if unused, may accumulate each year. The troublesome sentence which has resulted in conflicting interpretations is that which reads:
>
> 'Such leave shall be cumulative from year to year, but shall not exceed thirty (30) days' leave with full pay in any one year.'
>
> We interprete this sentence to mean that an employe shall accumulate annually 10 days' sick leave with full salary without limitation on total accumulation but that no more than 30 days accumulated sick leave may be used in any school year. Thus, by way of illustration, a teacher with six years of service who has never used any accumulated leave would be credited with 60 days and could exhaust it by taking 30 days leave with full salary in each of two successive years for illness or accidental injury.
>
> * * * * * * * * * * * *
>
> We are, therefore, of the opinion and you are accordingly advised that section 1154(a) of the Public School Code of 1949, supra, as amended, must be interpreted to mean that a professional or temporary professional employe shall accumulate annually 10 days sick leave with full salary without limitation on total accumulation which may be used at any time during the school year, but that no more than 30 days accumulated sick leave may be used in any school year."
> 18 D. & C. 2d 418, 420, 421.

The Attorney General's interpretation of Section 1154(a) is the interpretation this office gives to that section.

Two basic presumptions of statutory construction when attempting to ascertain the intention of the General Assembly in the enactment of a statute are:

(1) That the General Assembly does not intend a result that is absurd, impossible of execution or unreasonable.

(2) That the General Assembly intends to favor the public interest as against any private interest. (See 1 Pa. S. §1922).

It was observed in **Teacher's Association v. Board of Education,** 34 A. D. 2d 351, 312 N.Y.S. 2d 252 (1970), that sick leave as a condition of employment

> ". . . offers an inducement to competent and efficient workers to enter public service; *and the right to accumulate unused sick leave encourages the employee to stay in public service and at the same time deters absenteeism for trifling ailments."*
> 34 A. D. 2d 351, 354. Emphasis added.

The accumulation of sick leave days without limitation serves the public interest by encouraging employes to enter public service; it avoids an unreasonable result by discouraging the taking of leave for minor ailments.

We find that Mr. Marra was entitled to accumulate unused sick leave days without limitation prior to the 1968 amendment. Based upon the stipulation of counsel, we hold that Mr. Marra is entitled to be credited with a total of one hundred thirty (130) unused sick leave days, accumulated as of the end of the 1972-73 school year.

For the above reasons, we make the following

ORDER

AND NOW, to wit, this 7th day of December, 1973, it is hereby ordered and decreed that the Board of School Directors of the Mid-Valley School District credit Mr. Frank W. Marra with one hundred thirty (130) days of unused, accumulated sick leave as of the end of the 1972-73 school year.

* * * *

Appeal of John L. Caffas, a Professional Employee, from a decision of the Board of School Directors of the Upper Dauphin Area School District, Dauphin County, Pennsylvania

In the Office of the Secretary of Education, Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania

No. 239

OPINION

John C. Pittenger
Secretary of Education

John L. Caffas, Appellant herein, has appealed from the decision of the Board of School Directors of the Upper Dauphin Area School District dismissing him as a professional employee on the grounds of cruelty, persistent and wilful violation of the school laws, and intemperance.

FINDINGS OF FACT

1. John L. Caffas, Appellant, is a professional employee. He began his employment with the